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MERCHANT MARINE MISCELLANEOUS—PART 1

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

GRANTING OR RESTORING COASTWISE TRADING AND FISHING PRIVILEGES TO VARIOUS VESSELS (H.R. 485, H.R. 735, H.R. 739, H.R. 743, H.R. 2638, H.R. 3097, AND H.R. 3285)

SEPTEMBER 12, 1985

FOREIGN FACILITIES SCRAPPING (H.R. 3362)

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GRANTING OR RESTORING COASTWISE TRADING AND FISHING PRIVILEGES TO VARIOUS VESSELS

THURSDAY, SEPTEMBER 12, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:35 p.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Present: Representatives Biaggi, Anderson, Bennett, Carney, Shumway, Bateman, and Saxton.

Also present: Representative Hughes.

Staff present: Cyndy Wilkinson, Rudy Cassani, Art Sforza, Mark Aspinwall, Gerry Seifert, Chris Goebel, Kip Robinson, George Pence, Gwen Lockhart, and Ann Mueller.

STATEMENT OF HON. MARIO BIAGGI, A U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK, AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. BIAGGI. The meeting is called to order.

The Subcommittee on Merchant Marine is meeting to consider bills that are intended to grant or restore coastwise fishing privileges to a number of vessels. After the hearing it is my intention to go into subcommittee markup to consider one technical and conforming amendment to H.R. 485 that would include those vessels we feel merit legislative relief.

The facts concerning these vessels are in each Member's folder and I therefore feel it is not necessary to repeat them. As of a few days ago I was not aware of any person or organization that opposed the legislative relief being requested. Apparently, however, there is some controversy surrounding the vessel *Holland*.

The administration routinely opposes any relaxation of the cabotage laws, absent some compelling reason. It is expected that the committee will receive adequate data on each vessel to preclude opposition to the relief being requested.

I would like to make it clear that these bills solely grant or restore a privilege and do not exempt the vessels from other applicable provisions of law, like those that pertain to maritime or environmental safety. The relief being requested is noninflationary and will result in no cost to the Government.

Would any Members like to make an opening statement?

[No response.]

Mr. BIAGGI. No opening statements? I ask unanimous consent to place the following in the hearing record: Statements by the Honorable Don Young regarding the *Alaskan Shores;* the Honorable Marty Russo regarding the *Royal Star;* the Coast Guard; the Maritime Administration; Kenneth Schmidt, owner of the *Royal Star;* Joe Moody, owner of the *Jane E* and the *Diane M;* and a letter from Carl Moses, owner of the *Alaskan Shores.*

[Material follows:]

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM THE STATE OF ALASKA CONCERNING H.R. 3097

Mr. Chairman, I appreciate that you have scheduled this hearing and have taken prompt action on the bills before us. In particular, I am interested in H.R. 3097, regarding the vessel *Alaskan Shores* owned by Carl E. Moses of Unalaska, Alaska.

The *Alaskan Shores* was built for the United States military service in 1945. In subsequent years, it was sold to private individuals, and at one time ownership was in the name of an alien, but was, in fact, never operated by that person, nor did the vessel ever leave the United States. When Mr. Moses purchased the vessel at a Marshal sale, he was unaware of this defect in the title. This restriction makes it impossible for him to obtain financing for conversion of the vessel. In view of this, I believe he has a meritorious case for Congress to take action to correct this title defect.

Mr. Chairman, I have submitted a letter from Carl Moses for this hearing, which states the facts regarding this vessel and the circumstances surrounding his purchase of it. I request that this material be made part of the official record.

In view of the merits of this case regarding the *Alaskan Shores,* I urge prompt approval of H.R. 3097 which will restore U.S. documentation privileges to this vessel. Thank you.

STATEMENT OF HON. MARTY RUSSO, A U.S. REPRESENTATIVE FROM THE STATE OF ILLINOIS CONCERNING H.R. 2638

This afternoon I'd like to speak on behalf of my constituent, Mr. Kenneth J. Schmidt of Midlothian, Illinois. Mr. Schmidt is the owner of the cabin cruiser *Royal Star,* the subject of this legislation.

Mr. Schmidt is the owner and operator of a small business called K & K Charter Service. He purchased the *Royal Star* for use in this business, which provides sport fishers with the means to enjoy fishing the Great Lakes. However, when Mr. Schmidt attempted to acquire the proper license for using the *Royal Star* in this manner, he discovered that he was unable to meet the Coast Guard requirements for documenting the chain of title.

The *Royal Star,* a Chris Craft 35-foot cabin cruiser, was built in Holland, Michigan in 1961. It is currently registered as a pleasure craft with the State of Michigan, and I understand that it has been registered as such since its initial sale. Unfortunately, the State of Michigan keeps such records for only seven years, and consequently Mr. Schmidt is unable to prove that the *Royal Star* was owned by an unbroken succession of United States citizens. To the best of my knowledge, the *Royal Star* meets these criteria although, through no fault of his own, Mr. Schmidt can not produce the documentation necessary to conclusively prove this. If, as seems apparent, such is the case, it is patently unfair that Mr. Schmidt has been denied the right to operate the *Royal Star* as a charter fishing vessel, and that legislative redress of this situation is a logical necessity.

I hope that, barring any evidence to the contrary, you will see fit to assume that the *Royal Star* does indeed meet all the requirements for the Great Lakes and coastal trade commercial licensing, and that in consequence this subcommittee will submit a favorable report on H.R. 2638. Thank you for your time and attention today.

PREPARED STATEMENT OF THE COAST GUARD

The proposed bills which, if enacted, would extend fishery and coastwise trading privileges to the vessels *Holland*, *Marilyn*, *Jane E*, *Diane M*, *Royal Star*, *Alaskan Shores*, and *Shearwater*.

H.R. 485 would extend privileges to the vessel *Holland*, official number 636433 (not 637433 as indicated in the bill). The *Holland* was built abroad in 1964 and is not, therefore, entitled to documentation for nor employment in the coastwise trade or the American fisheries under the provisions of 46 U.S.C. 12105, 12106, 12107, and 12108, and of section 27, of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883). The vessel measures 133.7 feet in length, 28.5 feet in breadth, and 11.7 feet in depth and has a gross tonnage of 293 and a net tonnage of 199.

H.R. 739 would extend privileges to the vessel *Marilyn*. It is our understanding that this vessel was built abroad. Accordingly, it is restricted in its documentation for and employment in the coastwise trade or the American fisheries by virtue of the same laws that apply to the *Holland*. The *Marilyn* was also the subject of H.R. 1505 introduced in the first session of the 98th Congress.

The *Jane E*, whose official number is identified as 315924, and the *Diane M*, whose official number is identified as 315925, are the subject of two identical bills, H.R. 735 and H.R. 743. The official numbers identified in the bills are United Kingdom numbers. As best as the Coast Guard can determine, both vessels are tugs which were built in the United States and most recently were under Bahamian ownership and registry. The first proviso of section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), results in a loss of coastwise privileges for a vessel if it is sold to a noncitizen in whole or in part or if it is placed under foreign registry. A vessel does not permanently lose its fishery privileges by reason of sale to a noncitizen or by reason of foreign registry.

H.R. 2638 would extend privileges to the vessel *Royal Star*. Pursuant to 46 U.S.C. 12108, to be entitled to documentation for and employment in the American fishery, a vessel must be built in the United States. Pursuant to 46 U.S.C. 12106 and section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), to be entitled to documentation for and employment in the coastwise trade, a vessel must be built in the United States, must never have been sold to a noncitizen in whole or in part, and must never have been under foreign registry. In implementing the above laws, the Coast Guard, by regulations at 46 CFR 67.05–5, requires that an owner must provide evidence establishing a complete chain of title for the vessel and competent and persuasive evidence establishing the citizenship of each owner in the chain; 46 CFR subpart 67.09 requires competent and persuasive evidence of the facts of build of the vessel. Reportedly, the *Royal Star* was built in the United States in 1960, but the owner is unable to establish the chain of title for the vessel.

H.R. 3097 would extend privileges to the vessel *Alaskan Shores*, official number 603879. This vessel was built in the United States in 1945 and was subsequently sold to a noncitizen and/or placed under foreign registry. Pursuant to the first proviso of section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), the vessel is no longer entitled to documentation for and employment in the coastwise trade. As a vessel built in the United States, it continues its entitlement to the American fisheries. The vessel measures 125 feet in length, 30 feet in breadth, and 12.2 feet in depth and has a gross tonnage of 428 and a net tonnage of 192.

The vessel *Shearwater* is identified as a vessel for which a House bill will be introduced to extend coastwise trading and fishery privileges. The official number of the vessel is 260827. It was removed from documentation on March 18, 1976, and possibly sold to a noncitizen and/or placed under foreign registry. The *Shearwater* was built in 1942 in the United States. The vessel is not entitled to documentation for or employment in the coastwise trade under the first proviso of section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), if it was sold to a noncitizen and/or placed under foreign registry or if the owner is unable to provide a complete chain of title and competent and persuasive evidence of each owner in the chain of title. The vessel measures 62.1 feet in length, 17.0 feet in breadth, and 5.6 feet in depth and has a gross tonnage of 58 and a net tonnage of 51.

If the proposed bills are enacted, the vessels will be entitled to documentation for and employment in the coastwise trade and the American fisheries upon compliance with the usual requirements, including citizenship requirements and safety inspection and certification requirements. These privileges are not generally available to other vessels of the same class or type which suffer from the same disabilities.

PREPARED STATEMENT OF GARRETT E. BROWN, JR., ACTING DEPUTY MARITIME ADMINISTRATOR, MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Members of the Subcommittee on Merchant Marine. My name is Garrett E. Brown, Jr., and I am the Deputy Maritime Administrator of the Maritime Administration, Department of Transportation. I am pleased to appear this afternoon to present the views of the Department of Transportation with respect to the seven bills that are the subject of this hearing.

These bills would grant or restore coastwise trading and fisheries privileges to the following vessels:

a. H.R. 485 would extend privileges to the vessel *Holland*. The *Holland*, Official Number 636433 (not 637433 as in the bill), is a 133 foot vessel of 293 gross tons that was constructed in the Netherlands in 1964, and currently owned by Holland Associates, a Virginia limited partnership consisting of Fass/Holland, Inc. and Fisheries Development Corporation.

b. Both H.R. 735 and H.R. 743 pertain to the *Jane E.* and *Diane M.* The *Jane E.* (Official Number 315924) and *Diane M.* (Official Number 315925) are medium size oceangoing tugs that were constructed in the United States for the Diamond Manufacturing Co. of Savannah, Georgia, in 1961. Both are of steel construction, 85 feet in length, with a net tonnage of 133 tons. These vessels lost coastwise privileges when they were placed under Bahamanian registry. They were purchased in February of 1984 by Maritec Marine of Jacksonville, Florida, for use as tow boats.

c. H.R. 739 would extend privileges to the vessel *Marilyn*. The *Marilyn* is a 42 foot schooner that was constructed in Nova Scotia in 1935. Substantial rebuilding was performed at Logan's Marine Service, Crisfield, Maryland.

d. H.R. 2638 would extend privileges to the *Royal Star*. The *Royal Star* is a 25-year old, U.S. built, 35-foot Chris Craft, which the owner plans to employ as a charter fishing vessel on Lake Michigan. The owner of the *Royal Star* is unable to provide evidence of an unbroken chain of United States ownership of the vessel. Evidence of transfer of title from the first to second, and the second to third owners is not available. Two of those individuals are deceased.

e. H.R. 3097 would extend privileges to the *Alaskan Shores*. The vessel was built in Ambridge, Pennsylvania in 1945 and was subsequently sold to a noncitizen and/or placed under foreign registry. The vessel is 428 gross tons and measures 125 feet in length.

Finally, H.R. (to be introduced) pertains to the *Shearwater*. The *Shearwater* (Official Number 260827) was constructed in Seattle, Washington in 1942 as a Navy ferry boat. it is 58 gross tons and 62.1 feet in length. It was removed from documentation on March 18, 1976, and possibly sold to a non-citizen and/or placed under foreign registry.

Mr. Chairman. The Department of Transportation is unable to support these bills. As you know, since the founding of the Republic, coastwise trading and fisheries restrictions have been enacted to protect and foster the U.S. maritime industry. Absent some compelling reason, we oppose any relaxation of this longstanding policy. At the present time, we are unaware of any such reason with respect to any of these vessels. As far as we can determine, these bills would bestow certain economic benefits on the owners of the specified vessels without a concomitant benefit to the U.S. maritime industry.

PREPARED STATEMENT OF KENNETH J. SCHMIDT, OWNER OF THE VESSEL "ROYAL STAR"

My name is Kenneth J. Schmidt, owner of the 35 foot motorboat *Royal Star*. I wish to charter this vessel to sport fishermen on Lake Michigan.

I have been denied a commercial license for my boat because the chain of ownership cannot be proven to the requirements of the Coast Guard Documentation Office. Two of the *Royal Star*'s four previous owners are deceased.

In talking with an official at the Coast Guard Documentation Office, I was informed that the only thing they will accept is proof from the State of Michigan on the chain of ownership. I have checked with the State but the only records they keep are for the past seven years. The Documentation Office then informed me that I should seek redress before the Congress.

After almost two years of researching the *Royal Star*'s background, I have every reason to believe that the *Royal Star* has always been owned by American citizens, although I could not discover documentation that conclusively proves this.

PREPARED STATEMENT OF JOE MOODY, OWNER OF THE "JANE E" AND "DIANE M"

I am forwarding the latest status of the two vessels. As I don't need to reiterate that I am in dire monetary need. I have expended much time and money to both vessels totaling over $150,000 to date. Over $50,000 has been spent in a U.S. shipyard in refurbishing the said vessels, the *Jane E.* and the *Diane M.*

I have sent in a bid with the SWB corporation in hopes that these vessels can obtain a Navy contract for docking ships in Pensacola, but I need the American Flag and fast. I have already made arrangements to employ over 40 people if I get the bid on this Navy bid contract. I am in dire need to get the flag and coast wise privileges.

Thank you very much for your help and consideration. If I can be of any more help to you, please don't hesitate to call me.

SHORT HISTORY OF TUGS

As I have explained before, the said vessels, *Jane E.* and the *Diane M.*, were built in Savannah, Georgia, U.S.A. by Diamond Shipyard in 1961.

The vessels were then sent to Freeport in the Bahamas and were owned and worked by Standard Oil until 1984 when I purchased them. They were owned and have always been owned by an American company. They were built in America with U.S. labor. It is my hope that the vessels can return to the U.S. flag with coast wise privileges. I am hopeful that this can be accomplished by this special legislation. Also, I might add, that over one-fourth of the people that I will employ are unemployed now. It is better to me to have them working on a productive job than collect unemployment checks.

CARLS INC.,
Unalaska, AK, August 28, 1984.

Congressman DON YOUNG,
Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN YOUNG: I am the owner of the M/V *Alaskan Shores* as per attached.

It was built for the United States military service as a yard freighter in 1945.

It has a restriction on the documentation because it went through the ownership of an alien but never operated by same nor did it even leave the U.S. registry.

I was unaware of this when I bought it at a Marshal sale.

This restriction makes it almost impossible to obtain financing for conversion.

Please do what ever you can to get this restriction removed.

Sincerely,

CARL E. MOSES.

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-1270 (REV. 5-82)

CERTIFICATE OF DOCUMENTATION

OMB APPROVED
2115-0110

1. VESSEL NAME
ALASKA / SHORIB

2. OFFICIAL NUMBER
603,879

3. TONNAGE
GROSS 428 NET 192 L. B. D.
125.0x30.0x12.2

4. HOME PORT
Anchorage, Alaska

5. BUILD PLACE(S)
Ambridge Pennsylvania

YEAR
1945

6. OWNER
Carl E. Moses 100%

7. OWNER'S ADDRESS
P.O. Box 189
Unalaska, Alaska 99685

8. RESTRICTIONS
No Coastwise (4)

9. ENTITLEMENTS
None

10. PORT OF ISSUANCE
Anchorage, Alaska

11. DATE OF ISSUANCE
April 4, 1983

12. SIGNATURE & SEAL
John E. Feero

[redacted]

14. PROPULSION
yes

15. HULL MATERIAL
steel

16. TRADE ENDORSEMENTS. DO NOT INSERT ANY TRADES FROM WHICH VESSEL IS RESTRICTED. SEE BLOCK 8.

THIS VESSEL IS PRESENTLY DOCUMENTED FOR
FISHERY
REGISTRY

DATE 4/4/83
SIGNATURE John E. Feero

THIS VESSEL IS PRESENTLY DOCUMENTED FOR

DATE
SIGNATURE

THIS VESSEL IS PRESENTLY DOCUMENTED FOR

DATE
SIGNATURE

THIS VESSEL IS PRESENTLY DOCUMENTED FOR

DATE
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DATE
SIGNATURE

THIS VESSEL IS PRESENTLY DOCUMENTED FOR

DATE
SIGNATURE

*INDICATES CHANGE IN ITEM, NATURE OF WHICH IS REFLECTED ON REVERSE OF DOCUMENT

PREFERRED MORTGAGE ENDORSEMENTS

MORTGAGE ENDORSEMENT

INSTRUMENT
PM _____ INST _____
MORTGAGOR

MORTGAGEE

AMOUNT

MATURITY DATE

INSTRUMENT
PM _____ INST _____
MORTGAGOR

MORTGAGEE

AMOUNT

MATURITY DATE

MORTGAGE AMENDMENTS

1. INSTRUMENT AMENDED
PM _____ INST _____
CHANGE

DATE AND TIME OF ENDORSEMENT

SIGNATURE AND SEAL

PORT

* INSTRUMENT AMENDED

Mr. BIAGGI. The first witness is the Honorable Bill Chappell, a Member of Congress from the State of Florida.

STATEMENT OF HON. BILL CHAPPELL, JR., A U.S. REPRESENTATIVE FROM THE STATE OF FLORIDA

Mr. CHAPPELL. Thank you, Mr. Chairman. I am very appreciative of the committee's time to hear the story of two ladies of the sea, *Jane* and *Diane*, which we are attempting to get admitted to the coastwise trade. These boats are officially named *Jane E* and *Diane M*.

The boats are medium-sized oceangoing tugs currently owned by my constituent, Mr. Joe Moody of Jacksonville, FL. He purchased them in 1984 with the intent of putting them to work in Florida. As you will note from Mr. Moody's statement, which I understand you have before you, he has invested some $150,000 in the vessels, including purchase price, repair, and upkeep. This is a considerable amount, of course, for a small businessman.

Without enactment of this bill, he will be unable to utilize these tugboats and will lose this investment. Let me emphasize that these are medium-sized oceangoing tugs and I am informed that there is some short supply of this kind of vessel in the area. As Mr. Moody also mentions, he has bid for a Navy contract in Pensacola and feels very confident of obtaining that contract. If he is able to get that contract he can put these ships immediately into operation and enhance the employment in the area by at least 40 people.

Mr. Chairman, I acknowledge and support the intent of the Jones Act, and I am a firm believer in it. However, I would like to emphasize that these vessels were built in 1961 in an American shipyard. Now I notice that the letter of objection from the Department of Transportation mentions that they were built overseas. On the contrary, they were built in an American shipyard, owned by an American. They were later transferred to the Bahamian flag because they were going to be operated in that area by a Bahamian firm, which was itself owned by two American companies.

Now they have been brought back to America. They have been refurbished in America and they are owned by an American. They were built by the Diamond Manufacturing Co. of Savannah, GA with American labor.

I believe the history of the boats clearly indicates that they are not the type of vessels Congress intended to regulate when it passed the Jones Act. The only obstacle is the fact that they were at one time under Bahamian flag, but again I emphasize even that was American ownership. I hope the committee will clear this impediment and allow Mr. Moody to operate the boats in the United States.

Again, let me express my appreciation to the committee for scheduling this hearing, and I urge you to please give favorable consideration to this bill.

Mr. BIAGGI. I want to thank the gentleman for his interest in the bill and, of course, his testimony. The gentleman knows he is held in the highest regard by his colleagues as well as the Chair, and we also know that you wouldn't be advocating such a bill unless it has all the merits to it. We thank you for your testimony.

Mr. CHAPPELL. Thank you very much.

Mr. BIAGGI. Any questions by any Members?

[No response.]

Mr. BIAGGI. There being none, thank you.

Mr. Van K. Nield, owner of the *Marilyn*, and Mrs. John B. Walsh, owner of the *Shearwater*.

Oh, excuse me. Excuse me. We had another Member here and I didn't see him. My view was directly obscured by the gentleman from Florida. Congressman Jim Bates, will you please?

STATEMENT OF HON. JIM BATES, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. BATES. Thank you, Mr. Chairman. I appreciate the opportunity to submit some testimony to this hearing on private legislation. I know in the past the Subcommittee on Merchant Marine has assisted individuals whose circumstances merit relief from certain laws governing the merchant marine and to ensure those laws be properly applied.

I would like to request your support and that of the subcommittee for private legislation which I have introduced on behalf of Mr. Jack Walsh. Mr. Walsh, a U.S. citizen, wishes to document the vessel *Shearwater* with the U.S. Coast Guard for employment in the coastwise and fisheries trade. However, certain provisions of the Jones Act pertaining to the ownership of a vessel registered as a U.S. flagship prevent him from registering the *Shearwater* with the Coast Guard. Specifically, the ownership of the *Shearwater* by a non-U.S. citizen prior to his ownership of the vessel prevents the Coast Guard from registering the *Shearwater* for the coastwise and fisheries trade.

Legislation I have introduced will allow him to register the *Shearwater* despite this break in the chain of ownership. I believe that a brief history of the *Shearwater* will make clear the need for the legislation to grant this exception to certain provisions of the Jones Act for Mr. Walsh.

The *Shearwater*, formerly the U.S.S. *Jewell*, is listed in the Dictionary of American Fighting Ships. The U.S.S. *Jewell* was constructed by the Shain Manufacturing Co. of Seattle, WA. The vessel was launched in November 1942 and was put into service by the Navy in the 13th Naval District at Kodiak, AK in 1946. The 13th Naval District commissioned the vessel out of service to reserve status. Between 1950 and 1977, the vessel served as a commercial harbor cruise ship in the San Pedro/Long Beach area of California. During this period the vessel was documented by the Coast Guard.

The current owner of the vessel, Mr. Jack Walsh, has invested in excess of $500,000 in the *Shearwater* to ensure the vessel's safe operation in the coastwise and fisheries trade. Moreover, he has retained a former Coast Guard inspector to ensure that all restoration and reconstruction of the vessel is in accord with current Coast Guard requirements.

Mr. Chairman, I believe that in this case the Jones Act imposes an unreasonable hardship on the owner of the *Shearwater*, and while I do not advocate under any circumstances tampering with

the intent or the substance of the Jones Act, I do not believe that the act intended to raise a barrier against a U.S. citizen operating a former ship of the American Navy.

I respectfully request your favorable consideration of the private bill to provide relief for Mr. Jack Walsh, owner of the *Shearwater*. Favorable consideration will ensure that future generations will be able to sail aboard this former fighting ship.

Thank you again for allowing me to testify.

Mr. BIAGGI. I want to thank you for your testimony. You probably received the quickest action from this committee in the history of the country. I think you introduced the bill day before yesterday, and we are holding a hearing on it today.

Mr. BATES. That's my understanding, and I'm glad. My luck was bound to change. Some of my other bills have taken longer.

Mr. BIAGGI. They won't go much faster. We appreciate your testimony.

I understand Mrs. John Walsh is here. Mrs. Walsh, would you care to testify? Mr. Van Nield, would you come forward now?

STATEMENT OF MRS. JOHN B. WALSH OF SAN DIEGO, CA, OWNER OF THE "SHEARWATER"

Mrs. WALSH. Thank you, Mr. Chairman. I am Jill Walsh. My husband, Jack, and I are the owners of the *Shearwater* of which Congressman Bates has just spoken to you. Since he has gone into the history of the boat in some detail, I don't want to take too much of your time at this point.

I would mention that we have put a great deal of expense into the boat to restore it and to bring it into Coast Guard regulations, current Coast Guard regulations. We have overhauled both engines, put in a new hydraulic steering system. All fuel and water tanks have been replaced with stainless steel ones; complete, new electrical and plumbing. One-third of the hull has been replaced with mahogany planking and each existing rib has been augmented with oak laminating. This is just some of the work that we have done over a period of almost 3 years. For the last year and a half it has been in drydock or in a workslip at the boatyard on Shelter Island in San Diego.

A marine survey, which is dated March 28 of this year, states that: "The *Shearwater* is now in good structural and mechanical condition," with the work to be completed mainly painting, trim, and a new generator and anchor windlass installed. Lt. Comdr. Loveland, the Commander of the U.S. Coast Guard Marine Safety Office in San Diego, after a number of preliminary investigations, recently informed the congressional liaison office that the *Shearwater* should pass a formal Coast Guard inspection for documentation.

The complete plans for the *Jewell* are on file with the Commander of Naval Shipyards in Portsmouth, NH. Documentation and inspection records are on file with the Coast Guard at Long Beach.

We do feel that our efforts and expense in restoring the *Jewell/Shearwater* to active use, as well as its history of service both for the Navy in World War II and as a commercial vessel, warrants

your support and the restoration of its trading privileges, and we ask for that support.

Thank you very much.

[Mrs. Walsh's written statement follows:]

PREPARED STATEMENT OF MRS. JOHN B. WALSH

My name is Jill Walsh. My husband Jack and I are requesting that trading privileges be restored to our boat, the *Shearwater*. We are in the final stages of restoring our boat which has a long history of service as both a naval vessel during World War II and then as a harbor cruise boat in Long Beach for about a quarter of a century. Our present cost of restoration is approximately one-half of a million dollars.

Our intention is to charter our boat so that the general public will have an opportunity to enjoy a ship with a military and civilian historic past. The *Shearwater*, formerly the U.S.S. *Jewell* is listed in both the Dictionary of American Naval Fighting Ships (1968) and the Merchant Vessels of the U.S. (1951).

The U.S.S. *Jewell* was built in 1942 by the Shain Manufacturing Co., Seattle, Washington, for the Navy Department, Bureau of Ships. The U.S.S. *Jewell*, built as a ferry, was launched May 11, 1942. It was designated YFB22 and initially assigned to the 13th Naval District on August 12, 1942 at the Puget Sound Naval Shipyard. On September 4, 1942 it was taken to Kodiak, Alaska. It served as a ferry at Kodiak until 1943 when it was returned to Puget Sound where it was converted to an ammunition carrier. In 1946 the U.S.S. *Jewell* was assigned to 13th Naval District in the "out of service — in reserve" status.

On May 5, 1950 the U.S.S. *Jewell* was sold to a private group, became the *Shearwater*, and was reconstructed as a harbor cruise boat.

The *Shearwater* served as a commercial harbor cruise ship in the San Pedro/Long Beach, California area for the next 26 years. It was documented by the U.S. Coast Guard during this period for approximately 100+ passengers.

About 1976 the *Shearwater* was taken out of cruise service and sold at a marshal's sale. The *Shearwater* was purchased by June Willoughby, a California resident of Japanese ancestry who was in the process of becoming a U.S. citizen.

We purchased the *Shearwater* from Ms. Willoughby in 1982 and began an extensive repair program. We retained a former Coast Guard inspector to insure that all the restoration and repairs were done in accordance with the latest Coast Guard requirements.

Both engines were overhauled, a new hydraulic steering system installed, all fuel and water tanks were replaced with new stainless steel tanks, complete new electrical and plumbing systems were installed, x'62'1/3x'62' of the hull was replaced with mahogany planking and each existing rib was augmented by laminated oak frames. These are some of the extensive repairs done on the *Shearwater* which has been in dry dock or a work slip at the Shelter Island Boatyard for the last year and a half.

A marine survey dated March 28, 1985, states that "the *Shearwater* is now in good structural and mechanical condition, the work to be completed is mainly painting, trim also, and a new generator and anchor windlass installed."

After a number of preliminary inspections recently Lt. Commander Loveland, the Commander of the U.S. Coast Guard Marine Safety Office in San Diego, has notified his Congressional liaison office that the *Shearwater* upon formal inspection should pass Coast Guard inspection.

Complete plans for the U.S.S. *Jewell* are on file with the Commander of Naval Shipyards, Portsmouth, New Hampshire.

Documentation and inspection reports on the *Shearwater* are on file with the U.S. Coast Guard office at Long Beach, California.

In closing we feel that the efforts and expense of restoring the U.S.S. *Jewell/Shearwater* to active use as well as its history of service to our country warrants your support to restore its trading privileges so that future generations might sail aboard this former American fighting ship.

Thank you.

Mr. BIAGGI. Thank you, Mrs. Walsh.

Mr. Nield.

Mrs. Walsh, will you please remain at the table?

STATEMENT OF VAN NIELD OF ANNAPOLIS, MD, OWNER OF THE "MARILYN"

Mr. NIELD. Mr. Chairman, I would like to request that my entire statement be included in the record, and I will quickly summarize.

Mr. BIAGGI. Thank you. Without objection.

While we're doing that, the complete statement of Mrs. Walsh will be introduced into the record also. Without objection, so ordered.

Mr. NIELD. Mr. Chairman, I am Van Nield, joint owner with my wife, Marilyn Nield, of the schooner *Marilyn*. We appreciate the opportunity to present our request to you to be allowed to use the *Marilyn* to carry small cruise parties in U.S. waters.

We fully understand the purpose of the law, the Jones Act, prohibiting use of foreign-built vessels in the U.S. coastal trade, to prevent unfair competition by cheap foreign vessels. We feel, however, that even though *Marilyn* was originally built 50 years ago in Nova Scotia, her circumstances warrant making an exception for her.

The essence of these circumstances is that we will not be in unfair competition with anyone. In fact, we will be at a disadvantage. We have spent far more to nearly completely rebuild the boat in U.S. yards than it would have taken to build her originally, so she is effectively a new, U.S.-built boat, being over 90 percent rebuilt in Maryland.

Regarding the outlook of those with whom we could potentially compete, there actually is no one. There is no operation like we plan—personalized, captained, catered, several-day cruises on the Chesapeake, reasonably priced, for four or five people aboard a small, traditional, classic gaff-rigged sailing vessel.

We had not learned of the law prohibiting commercial use of foreign-built vessels until we had spent about $75,000 and thousands of hours of our lives in rebuilding the *Marilyn* and applied for documentation. At that point we could not stop without losing just about everything. We have a large investment of time and money in this boat, as I mentioned, including just about all our savings and a great deal of ourselves. If we are able to operate the *Marilyn*, she will be, we feel, economically, esthetically, and culturally beneficial to the Chesapeake area.

Given the circumstances and all we have contributed to the local industry, to the point of actually being at a distinct, competitive disadvantage, and the total lack of danger of our interfering with anyone else's interests, thus completely, we feel, abiding by the intent of the Jones Act, it would seem most fair and reasonable for us to be allowed to use the *Marilyn* for our business.

Mr. Chairman, we would be very grateful if you would recommend approval of H.R. 739, to allow *Marilyn* to be documented as a U.S. vessel. We thank you, sir.

[Mr. Nield's written statement follows:]

PREPARED STATEMENT OF VAN NIELD

Mr. Chairman, I am Van Nield, joint owner with my wife, Marilyn Nield, of the schooner *Marilyn*. We are both U.S. citizens. We appreciate the opportunity to present our request to be allowed to use the *Marilyn* to carry small cruise parties in U.S. waters. We fully understand the purpose of the law prohibiting the use of foreign built vessels in the U.S. coastal trade: to prevent unfair competition by cheap

foreign vessels. We feel, however, that even though *Marilyn* was originally built fifty years ago in Nova Scotia, her circumstances warrant making an exception for her.

The essence of these circumstances is that:

We will not be in unfair competition with anyone; in fact, we will be at a disadvantage. We have spent far more to nearly completely rebuild the boat in U.S. yards than it would have cost to build new here, (probably about $60,000) let alone to buy her abroad. (This neglects all the money spent on her here by all her previous U.S. owners.)

She is effectively a new, U.S.-built boat, being over ninety percent rebuilt in Maryland.

Regarding the outlook of those with whom we would potentially compete, there actually is no one. There is no operation like we plan: personalized, captained, catered several-day cruises on the Chesapeake—reasonably priced—for four or five people aboard a small, traditional gaff rigged sailing vessel. In fact, the one person with whom it has been suggested we might compete, Captain Gerry Morton of the bugeye *Mustang*, Annapolis, tells me he is glad we have restored the boat, and welcomes us. He says that in thirty years of chartering he has had no competition. He, incidentally, has changed to strictly daysailing.

We did not learn of the law prohibiting commercial use of foreign built vessels until we had spent about $75,000 and thousands of hours of our lives in rebuilding the *Marilyn*, and applied for documentation. At that point, we could not stop without losing nearly everything.

We have a very large investment of time and money in this boat, including all our savings and a great deal of ourselves. She is ideal for our purpose — roomy, seaworthy, a superb sailer and a very appealing classic. She would be very hard to replace, even at considerable further expense; she is nearly the last of her kind. If we were not allowed to use her, it would be such a setback, in many ways, that we would most likely have to give up our plans.

If we are able to operate *Marilyn*, she will be economically, esthetically and culturally beneficial to the Chesapeake area.

Inspection and licensing are not a problem. Carrying six or less passengers, she will be classified as an uninspected vessel. I have ample lifetime experience in many types of ships and boats, sail and power, to qualify as captain.

The following chronological account will expand on these points somewhat:

In September 1978 we purchased for $9,500 a 42' two masted, gaff rigged wooden schooner, built in 1935 in Lunenburg, Nova Scotia for a couple in Baltimore. She has had many U.S. owners since, and stayed almost entirely on the Chesapeake. While many of her previous owners had done much work on her and maintained her well, she had more recently been neglected. Neither we nor the incompetent surveyor we happened to hire discovered how badly she was deteriorated until we had started to make some relatively minor repairs and invested another $12,000 in labor and materials locally in Annapolis. It was obvious then that all her frames and many other parts, visible and still hidden, were rotten and needed replacing.

In early 1979 we put her into the Crisfield Shipyard in Crisfield, Maryland for this work, which was to be done on a time available basis at a discount, and working as much as we could ourselves. Further dismantling for repair led to the successive discovery of many more serious problems. She ended up almost entirely rebuilt: all frames and planks, the stem, the forefoot (which on her is very long), the whole stern section, two-thirds of the deck, half the beams, half the floors, the keelson, three-fourths of the (double sheer clamp and the foremast were renewed. The engine was rebuilt and a bowsprit added. The total yard bill at Crisfield was over $54,000. A letter from the yard is attached. The cost of further materials and our travel and other expenses we estimate at about $15,000. The time my family and I have spent on the boat approaches 4,000 hours. We will still probably need to spend another $5,000 and more time to make her fully operational. The total, approximately $95,500, is far in excess of the boat's worth, even though she is essentially new. She is another fishing schooner, not a plush yacht. We would be lucky to get $40,000 for her, considering also the current very specialized market for wooden boats. Had we stopped much short of the total, however, we would have lost nearly all of it.

I have lived and related closely to the Chesapeake Bay most of my life, and Mrs. Nield has, in fifteen years, become very fond of it as well. We had long thought we would like very much to be able to make at least part of our living on the Bay. The schooner, soon after we bought her, seemed to us to be the ideal chance. We decided on the small, personalized cruise operation as what we could do best, and planned accordingly.

Even though the cost of the boat grew far out of proportion, we kept going because of the enthusiasm and encouragement our informal market research found, and the absence on the Chesapeake of anything like we have in mind. There are of course many modern fiberglass boats available for charter, captained or bareboat, but essentially no traditional, old fashioned boats, which have a strong appeal to many people.

In early 1982 we applied for documentation to the Coast Guard and soon learned about the prohibition of foreign built vessels in the U.S. coastal trade. We were advised that, because of our special circumstances, the Congress might be willing to enact a law making an exception in our case, as had been done a few times in similar situations. Our Representative, Mrs. Holt, was good enough to introduce a bill for us to that effect in the last Congress.

Marilyn's hull, rig and engine were completed in late 1982, and we returned her to a berth near Annapolis. Since then we have continued to rebuild her accommodation and plan our cruise business while waiting for the outcome of this legislation.

Our further market inquiries confirm potential customers' enthusiasm as well as the continued absence of similar offerings. There are very few traditional boats on the Bay in any capacity. The Maine cruise schooner fleet does not come to the Chesapeake. There are two very large steel hulled sailing vessels, *Mystic Whaler* and *Mystic Clipper*, who operate occasionally on the Chesapeake, but they offer an entirely different type of cruise, carrying many people on a fixed itinerary. As I noted earlier, *Mustang* now does only day sails.

If we can use the *Marilyn*, we expect to be successful, even though it will take us quite a while to overcome her initial cost. If we can get started with her, we might even, in time, be able to put one or two more similar (U.S. built) boats into service. Guests will enjoy them, and we will provide employment to crews and business to those yards and suppliers for whom the traditional wooden vessel trade has shrunk drastically. The boats' presence would contribute a lot to the maritime atmosphere of the Bay cities they visit, with all the related benefits.

On the other hand, if we cannot use this boat, it will cause us such a severe setback that we will probably not be able to go in business at all. To have to sell her and buy another boat would so increase our debt, and be so discouraging, that we would most likely be forced to decide it would not be worthwhile to proceed.

Given the circumstances: all we have contributed to the local industry, to the point of actually being at a distinct competitive disadvantage—if there were any competition—and the total lack of danger of our interfering with anyone else's interests, thus completely abiding by the intent of the law, it would seem most fair and reasonable for us to be allowed to use the *Marilyn* for our business, which will in fact benefit her operating area.

We and our prospective guests would be very grateful if you would recommend approval of H.R. 739 to allow *Marilyn* to be documented as a U.S. vessel.

LOGAN'S MARINE SERVICE, INC.,
Crisfield, MD, September 10, 1985.

Mr. VAN K. NIELD,
Annapolis, MD.

DEAR VAN: I'm glad to hear things are progressing with the *Marilyn*. This is to confirm the extent of work done on her while she was in our yard during 1979–1982.

We almost completely rebuilt the boat. We replaced the entire hull, except for part of the backbone and the deadwood, and renewed most of the deck structure and planking. One mast was renewed, a bowsprit added, and the engineering plant and steering gear were completely overhauled.

We do not have the exact amount you spent with us—a lot of the bills were misplaced when we moved—but I remember the total was close to $55,000.

The above of course does not count all the work you and Marilyn and your sons did, driving to Crisfield nearly every weekend, holiday and leave period for three years.

I hope this information will be helpful. Good luck.

Regards,

LOWELL R. GOODMAN, *Vice President.*

Mr. BIAGGI. Mrs. Walsh, are you aware of anyone who might object to the restoration of privileges to the *Shearwater*?

Mrs. WALSH. No, sir, I am not.

Mr. BIAGGI. No? Mr. Nield?

Mr. NIELD. No, none.

Mr. BIAGGI. How much have you spent in U.S. shipyards in repairs and rebuilding?

Mr. NIELD. Altogether, let's see, subtracting our own expenses, $90,000.

Mr. BIAGGI. How much more do you expect to spend?

Mr. NIELD. It will take another $5,000, I believe, to make her fully operational, for equipment and some more materials.

Mr. BIAGGI. OK. Thank you very much.

Any questions, gentlemen?

Mr. SHUMWAY. Mrs. Walsh, I didn't hear you say—maybe you did—what use do you intend to make of the *Shearwater?*

Mrs. WALSH. Yes, we intend to charter it for cruises so that the citizens will be able to have the experience of sailing on a former fighting ship.

Mr. SHUMWAY. Within the San Diego Bay?

Mrs. WALSH. Yes, yes, within the San Diego Bay area.

Mr. SHUMWAY. Are there other ships now doing that, so you would be in competition with them?

Mrs. WALSH. Not that type, nothing of an authentic Navy-built ship.

Mr. SHUMWAY. Mr. Nield, you said that you have already spent on repairs more than it would cost to build the *Marilyn* if it were constructed in a U.S. yard. It's a 7-gross-ton ship, 42 feet in length. What would you estimate that would cost if you were to buy it or have it built here? Less than the $90,000 you have put into it?

Mr. NIELD. Yes, sir. I estimate in the same yard where we had her rebuilt, it would probably cost $60,000 to just start from scratch. What we got into was one of these successive rebuilds where the further we opened her up, the more trouble we found, and we couldn't quit short of a complete rebuild.

Mr. SHUMWAY. You say that for the use you intend to make of it, there is no present competition?

Mr. NIELD. No, sir.

Mr. SHUMWAY. No one else is doing that?

Mr. NIELD. No. In fact, I have talked to the one gentleman with whom it has been suggested we might compete. This is Capt. Gerry Morton of the *Mustang* in Annapolis. Captain Morton knows our boat. It has been on the bay for years. He is glad we have restored her. He welcomes us aboard and, in fact, authorized me to quote him as saying that in the 30 years that he chartered the *Mustang* in an operation similar to what we envisioned, he had no competition, so that there is no one.

Mr. SHUMWAY. One last question for Mrs. Walsh: I don't want to belabor this, but when you buy a boat like this, isn't there any kind of instrument of title that shows the chain of ownership, or didn't you ask for that as a matter of course?

Mrs. WALSH. We were not aware of the provision that being out of American ownership for a brief 4-year span for an American fighting vessel would really—it never entered our minds, Mr. Chairman, that it would make a difference.

Mr. SHUMWAY. The foreigner that did own the ship I understand was a U.S. resident, even though he was an alien. Is that correct?

Mrs. WALSH. Yes. It was a woman—Ms. June Willoughby was her name—a California resident of Japanese ancestry.

Mr. SHUMWAY. Thank you, Mr. Chairman.

Mr. BIAGGI. Mrs. Walsh, did the Coast Guard inspect the vessel?

Mrs. WALSH. Yes, they have, sir. As a matter of fact, we haven't had the final inspection but, as I indicated, the Commander of the Marine Safety Office of the Coast Guard in San Diego has done a preliminary inspection several times, and just recently indicated that there should be no problem in passing a formal inspection.

Mr. BIAGGI. Thank you, Mrs. Walsh

Thank you, Mr. Nield.

Mrs. WALSH. I would also say that we had a former Coast Guard inspector working with us along the way on all of our repairs and renovations to make sure that it was done——

Mr. BIAGGI. That you were doing it properly?

Mrs. WALSH. Right.

Mr. BENNETT. Mr. Chairman?

Mr. BIAGGI. Mr. Bennett?

Mr. BENNETT. The question I have that runs through my mind is, did you innocently think that you could use it in the way in which it was going to be, and you spent all this money on it? Is that what happened?

Mrs. WALSH. Yes, sir, that's what happened.

Mr. BENNETT. And is that also true with you?

Mr. NIELD. Yes, sir.

Mr. BENNETT. A different ship.

Mr. NIELD. Right, right.

Mr. BENNETT. A little tangential matter. Why did you put mahogany on it?

Mrs. WALSH. I don't know why it is mahogany, to tell you the truth. I don't know why that was selected, but that is for the planking of the hull. A third of the hull was replaced and all of the ribs were laminated with the oak. It's quite beautiful.

Mr. BENNETT. I'm sure it is. I just wondered why you used mahogany. I believe they usually use teak. I don't think it has particular water ability. It's pretty wood, but I don't believe——

Mr. WALSH. I'm sorry. I don't know exactly the answer to that question, Mr. Bennett.

Mr. BIAGGI. All I have ever had was lapstrake mahogany boats. They're pretty.

Mr. BENNETT. Mahogany is a beautiful wood but it may not be particularly seaworthy. I didn't know that it was.

Mr. BIAGGI. Yes. When they break up you can make furniture.

Mrs. WALSH. I'm sure it was because it was recommended by the Coast Guard inspector who was recommended.

Mr. BIAGGI. Thank you, Mrs. Walsh.

Thank you, Mr. Nield.

Timothy Parsons, president of Virginia Cape Seafood, lessee of the *Holland*, accompanied by the Honorable Herbert Tenzer of Tenzer, Greenblatt, Fallon, & Kaplan. Mr. Parsons.

STATEMENT OF TIMOTHY PARSONS, PRESIDENT, VIRGINIA CAPES SEAFOOD, INC., LESSEE OF THE "HOLLAND", ACCOMPANIED BY HON. HERBERT TENZER, OF TENZER, GREENBLATT, FALLON & KAPLAN

Mr. PARSONS. Yes, Mr. Chairman and members of the subcommittee. My name is Timothy Parsons. I am the president of Virginia Capes Seafood, which is the lessee of the freezer test ship, the *Holland*, and the owner-operator of a $4,600,000 Hampton, VA, frozen and fresh seafood processing facility, one of the five largest on the east coast.

With me at the witness table is Mr. Herbert Tenzer, senior partner in Tenzer, Greenblatt, Fallon & Kaplan, 405 Lexington Avenue, New York, NY, attorney for the *Holland*. Also with me today is Mr. I. Louis Fass, one of the former investors in the *Holland* and presently a consultant of the Virginia Capes Seafood Co., who is here to answer any questions which the committee may have that I may not be able to answer.

I am here today to testify in support of H.R. 485, to clear certain impediments to the licensing of the vessel *Holland* for employment in the coastwise and fisheries trade. We seek the subcommittee's approval of H.R. 485, granting coastwise fishery privilege to the *Holland*. We do so on behalf of more than 30 American citizens who invested more than $2 million in the Holland Associates Partnership, which owns the *Holland*, and also on behalf of Virginia Capes, which leases it. Our reasons are as follows:

Before the *Holland*, American fishermen packed squid and butterfish in ice, brought it back to the processing plant 2, 3, 4, or even more days later, and then finally froze it. The *Holland*, which is the first American-flagship—and by American-flagship, I mean the first American freezer processor under the American flag on the east coast to test the feasibility of freezing squid and butterfish at sea—proved that freezing at sea made a significant difference. Its goal was to determine if the United States could capture a substantial portion of the market over which foreign fishing vessels have a virtual monopoly.

Our first general manager, Mr. Ray Gerson, was instrumental in acquiring the *Holland* to test the viability of American freezing of product at sea. Having seen this success and learning from our experiences, he has gone on to emulate the *Holland* through an interest in another ship. Ironically, he is now appearing as an opponent to the committee's approval of H.R. 485.

We are here today to tell this honorable committee that the *Holland's* privately financed experiment succeeded. The *Holland* has proven that the American fishing industry can develop for the United States a new and expanding multimillion-dollar domestic and export industry by freezing squid and butterfish at sea. We estimate that the U.S. sales of squid and butterfish frozen at sea are expected to reach 50 million pounds within the coming 18 months, and that means approximately $25 million to be added to the United States' domestic and export trade.

This is what the *Holland* experience involved: Private American citizens, without any Government subsidy, first risked $900,000 to buy and fit an experimental ship to freeze squid and butterfish

brought to it at sea by two or three American coastal fishing vessels. Holland Associates, to keep their experimental costs at a minimum, purchased the foreign-built *Holland* in consultation with Ray Gerson. In making their investment, they assumed that a few coastal fishing vessels would supply a sufficiently continuous flow of product to make the venture economically feasible.

For its first 2 years at sea, this is how the *Holland* operated: The *Holland* purchased at sea the squid and butterfish catches brought to the ship's stern by American fishermen. The *Holland* immediately froze the fish and proceeded to bring the fish back to the 10-acre, 30-ton-a-day processing facility of Virginia Capes. This facility, with a 2 million pound storage capacity, exported approximately 60 percent of the *Holland's* product.

The *Holland* confirmed after 2 years of testing what the foreign vessels already knew: that the fish frozen at sea, when processed on land, produced a superior product. The *Holland's* frozen-at-sea squid and butterfish was closely comparable to fresh, unfrozen fish. It met the standards for the discriminating foreign taste for squid and butterfish and, in addition, it was especially suitable for exploiting the newly developed American consumer's increased appetite for squid.

The *Holland's* product was superb but the small shipping vessels which brought their catch to the *Holland* could not maintain the steady, uninterrupted flow of squid and butterfish which the *Holland's* modern freezing facilities required. High seas, winds, and storms frequently forced these small coastal trawlers to return to port. Therefore, the *Holland* was obliged to stand by empty, often for days.

The *Holland* would be able to fish through these rough times, thereby maintaining a supply of product necessary to make the venture successful. Every day that the *Holland* did not buy product cost the *Holland* thousands of dollars. As a result, the *Holland* lost approximately $1 million in its 2 years of operation. By the third year, the investors had no choice but to tie up the *Holland* in port at dockside.

When the *Holland* is permitted to fish for itself, it can then profitably support its processing facilities, thereby ensuring jobs for Americans in the Tidewater area. In order to do so, we respectfully request this honorable committee to approve H.R. 485, which will grant the *Holland* the necessary exemption to the Jones Act. H.R. 485, if approved by your honorable committee and ultimately adopted, will vindicate the good faith of these American citizens who have so far spent more than $2 million in developing their experimental, high-risk venture. We submit that H.R. 485 will enable us to catch and freeze fish for the ultimate benefit of the United States' domestic and export trade.

It is anticipated that the *Holland*, when fishing and freezing in American coastal waters, will spend at least $750,000 a year in the United States for maintenance, supplies, salaries, and services. Such substantial American investments in the United States and in its domestic and export trade is further evidence of the benefits which H.R. 485 will bring to the United States.

This will not be the first time that such an exemption has been granted. We respectfully submit that the efforts of these American

investors have substantially enhanced the best interests of the United States. This exception will enable us to continue that service to our country and its vital domestic and export trade.

We respectfully ask this honorable committee to approve H.R. 485, to clear certain impediments to the licensing of the *Holland* so that it can be employed in the coastwise and fisheries trade.

Thank you. I would be happy to answer any questions you may have.

Mr. BIAGGI. How much did the Holland Associates originally pay for the vessel?

Mr. PARSONS. Originally, Holland Associates paid approximately $350,000 for the vessel, and an additional $700,000 approximately to retrofit the ship, give it the capability to freeze fish.

Mr. BIAGGI. In U.S. shipyards?

Mr. PARSONS. No, sir; that was done over in Holland, where the boat was originally purchased.

Mr. BIAGGI. How much more work would be required?

Mr. PARSONS. It would require approximately $150,000 to $200,000 to retrofit the boat to be able to fish, and that of course would be done here in U.S. shipyards.

Mr. BIAGGI. I have been told that a similar vessel would cost $5 to $7 million, maybe $8 million, if built in a U.S. shipyard, and that the total *Holland* investment will never be more than 25 percent of this. Doesn't this place the *Holland* in an unfair competitive position?

Mr. PARSONS. My answer would be, sir, that I think initially the people who have gone and invested these sums of money have been watching the *Holland* very closely as to how it would succeed. I think the whole industry, in fact, has learned from the *Holland* exactly, in effect, how not to do it and what is necessary for the U.S. fishermen to do it properly. That, I feel, is where the justification—these investors spent their own money up front, and the purchase of the foreign vessel was strictly to reduce the cost of getting out there and trying to experiment.

Mr. BIAGGI. Was there any other vessel out in the oceans doing the same business?

Mr. PARSONS. As far as an American-flag vessel, not to my knowledge on the east coast.

Mr. BIAGGI. Any questions? Mr. Carney?

Mr. CARNEY Thank you, Mr. Chairman.

Mr. Parsons, in your testimony you said that this will vindicate the good faith of American citizens who spent more than $2 million to develop the *Holland* venture. Obviously, I would assume these were sophisticated investors. Is that not so?

Mr. PARSONS. Yes, they are, sir.

Mr. CARNEY. Are you familiar with the tax shelters available to investors in this type of venture?

Mr. PARSONS. I am aware that certain tax shelters do exist.

Mr. CARNEY. So they were out after tax shelters. As sophisticated as they were, I would imagine that they would recognize that the *Holland* would not be permitted to engage in fishing without special legislation. Is that not correct?

Mr. PARSONS. They were aware of the legislation which did exist. I think what you have to understand is the relationship between

the investors of the *Holland* and, of course, the major processing facility which is located in Hampton, VA. They were looking for a way to do what the foreigners have been allowed to do in U.S. waters for a number of years and still do today. I think this was an attempt, (a) to ensure that we would have control over the product for American processing facilities, and I just wanted to reiterate that it was the first attempt by an American group to try and do what the foreign shipping people were doing.

Mr. CARNEY. What I'm saying, though, it is such a sophisticated group, they were fully aware of the risks involved. This was a high-risk investment for a tax shelter, and Jones Act legislation has been on the books since 1920. Why should we change it for some investors? If they weren't cognizant of the particular necessity to get a waiver from Congress, so be it.

Mr. PARSONS. Mr. Carney, I don't believe that the tax shelter was the initial reason why they invested in the boat. I feel, based on their investment in the processing facility as well, that they were looking for a way to ensure their product.

I just wanted to back up. As you may know——

Mr. CARNEY. Ensure the what, sir? I didn't hear that.

Mr. PARSONS. The supply of our product. Without the ability to freeze at sea, we have to rely on the American fishermen to bring the product back packed in ice. OK? We have an extremely large processing facility, which our product must be coming in to us on a regular basis, and this venture was an attempt to try to control properly the way the product was flowing into our facility. Without such a control, if it is not frozen at sea, you really must rely on the ability of the American fishermen to catch it and bring it in, and it's very random, as you might well imagine. We would get one boat in on 1 day and then another boat 4 days later, and here again we've had people——

Mr. CARNEY. If I understand you, you're saying that this list of people who are involved in the investment, many of whom are from Binghamton, New York and Wilkes-Barre, PA, their concern as great Americans was to ensure the supply of this catch, a steady flow this catch.

Mr. PARSONS. Well, having been—initially the group was brought together to help finance the boat, and the boat's purpose was to do this.

Mr. CARNEY. I think they are pretty great Americans, that up in Wilkes-Barre and down in Binghamton, NY, they were that concerned about the rest of the 235 million Americans, that we would have a steady flow of these specific species of fish, and they were poor investors. They were well-motivated, but unfortunately I think we should protect our shipping industry and protect our American-built ships and the people who fish on them, more than protecting these well-meaning Americans who invested. I would hope you would pass my message on to the investors. I thank them, but I don't think we should violate the Jones Act because of their goodwill. I appreciate it very, very much, but that doesn't affect the substance.

Mr. PARSONS. We aren't trying to violate the Jones Act. I want to make that clear. We were well aware that the Jones Act was there. We got in the position that we felt that we had experimented, and

being the first ship, we found that it was necessary to be able to fish your own catch in order to make the project viable, which is the reason why many of the opponents here today have recognized that from our experience.

Mr. CARNEY. We do now have American-built vessels with the same capability that you are competing against. Is that not correct?

Mr. PARSONS. We are not competing with them directly at this point. There are ships that, I think about 2 years after the *Holland* had been in operation, the *Huntress* and a couple of others at this point are actively doing what we had attempted to do and with a U.S.-hull vessel. Recognizing that it is necessary to fish in order to ensure your catch at sea, they have designed their ships accordingly.

Mr. CARNEY. Thank you.

No further questions, Mr. Chairman.

Mr. BIAGGI. Mr. Bateman?

Mr. BATEMAN. Mr. Chairman, let me just comment very briefly.

For personal reasons and by virtue of significant connections between the owners and those who are involved with the owners of the *Holland*, I would like to be in a position to support their bill, but I am one of those who—like everyone who has addressed any of these bills to this date—who recognizes the importance of the Jones Act and the purposes which underlie it. Except for a finding of some specific and compelling reason why there should be an exemption, I am not in a position by my vote to support exemptions of vessels from the Jones Act.

Mr. Chairman, I am sure you are very aware of the fact that I have some rather emotional philosophical commitments to maintaining the Jones Act and so, with deep regret, I am just not in a position to be of help even to constituents in Virginia's First Congressional District, because of the overriding importance that I do attach to the Jones Act.

For that reason, if I am able to be here at the time the vote is cast, I would have to vote against the exemption for the *Holland*. If I might, and not violate our rules, I would indicate that with respect to these other proposed exemptions, I am very nervous even about them, though I can stretch and find some reasons which might be described satisfactorily to others as being compelling for supporting them. On those bills, Mr. Chairman, I will abide with whatever the committee chooses to do, as I will of course with the *Holland*. I think I shall just record myself as passing on the others but I cannot support the *Holland*, because I think it does inject a competition with the American-built and manned fishing vessels.

As I best understand it, the *Holland* was purchased by the investors with full knowledge of the Jones Act and its implications, and that it was only when what they started off to do with the *Holland* did not prove profitable or sufficiently profitable that they then wished to remodel it and convert it so that it would have, in addition to processing, the fishing capacity. I am very sympathetic to the investors but unable to be of help to them.

Thank you, Mr. Chairman.

Mr. BIAGGI. Would the gentleman yield?

Mr. BATEMAN. Yes, Mr. Chairman.

Mr. BIAGGI. I understand the usual reasons and conditions that we consider when requests like this come before the committee. We have a course of conduct that we pursue, but I guess every once in a while something occurs that requires a little special scrutiny.

We are witnessing investors who think they have found a better mousetrap. Apparently they were making it work for a while and were producing a superior product when no one else was out in the waters doing the job. It clearly was high-risk and there might be some shelter benefits but, those aside, they were the forerunners and they proved that this could be done. As a result, there will be a new industry with great promise. The question that comes to my mind, doesn't the question of equity come into play? Shouldn't it be given some consideration?

Mr. BATEMAN. Well, Mr. Chairman, I am sure that by virtue of the very fact that the bill is before us, they are going to be given consideration. The question is—to my mind the question is—are there circumstances that, in the consideration of the matter, dictate that we create the kind of precedent that would be created by granting a Jones Act exemption here. I am impressed, and I am saying a lot more on this than I anticipated saying or wanted to say, but I am mindful of the fact that there are out there in the world numerous other *Hollands*, and if we are to exempt this *Holland*, why not five or six other *Hollands*, other than the fact that surely there may be some economic advantage to the owners which is lost. But I don't think we can forego sound public policy because some investors may lose some money or be less profitable than they might otherwise have been. If that be the case, everybody would be free to go out and make the investment and then, if it didn't turn out to be as profitable as they would like, get an exemption of the Jones Act.

Mr. BIAGGI. If the gentleman would continue to yield, I don't think we are looking at the prospect of more *Hollands* because what has developed as a result of the initial *Holland*——

Mr. BATEMAN. Pardon me, Mr. Chairman?

Mr. BIAGGI [continuing]. What has developed as a result of the initial *Holland* is that they have established that the process works and that other people are interested. I understand there might be some American-built vessel or several vessels that are ready to get involved in the industry. Clearly there is a market out there, and there is a piece of business to be had and money to be made.

My thinking is, and purely from an equity perspective, that there are those who pioneered and showed the way and opened the door for others who profited as a result of the initiative of the *Holland*. Shouldn't there be some compensatory consideration given to the *Holland* on that score?

Mr. SAXTON. Would the gentleman yield?

Mr. BIAGGI. Sure, Mr. Saxton.

Mr. SAXTON. I certainly agree with the premise that we need to be concerned with finding new and better ways to fish and to process fish, and I would agree with you, but unless I interpret Mr. Parsons' statement incorrectly, I don't believe that is the case. In his statement on page 3 he indicates that the *Holland* confirmed, after 2 years of testing, "what the foreign vessels already knew,

that fish frozen at sea, when reprocessed on land, produced a superior product."

So I don't believe that a case can justifiably be made that this was a pioneering effort. It was an effort to put into practice a procedure that had already been shown to be successful. I think, as has been pointed out by the gentleman from New York, that the investors knew full well what they were doing when they bought the ship for processing purposes and it was shown not to be profitable, and I believe that's why they are here today.

Mr. BIAGGI. Yes, except this, the people who financed the *Holland* were willing to take the risk.

Mr. SAXTON. If I may, Mr. Chairman, I represent fishermen on the New Jersey coast who also take a risk, and their risk is certainly of equal if not greater magnitude with those who take a risk to purchase and operate a ship and then try to gain approval for something that is contrary to the Jones Act. Those fishermen who are in the Cape May area and in the Barnegat, NJ area and all up and down the mid-Atlantic coast I think are due some consideration in this matter as well.

Mr. CARNEY. If the gentleman would yield, you know, I represent fishermen out of Shinnecock, out of Montauk. They fish on American-built boats and, in fact, probably some of them were involved in a joint venture which we had allowed to help our fishermen. I would concur with you, they have to buy their ships to help the industry here in the United States. Everyone else does. I think what we are trying to do is establish a flat playing field for everybody, and this would go counter to that. It goes counter to everything we have done in this committee for years to preserve shipbuilding and the industries associated with our fish off our coast, and I think it would be a terrible precedent to set at this time.

I am glad you are bringing the point up of your fishermen. Apparently the gentleman, in his testimony, doesn't think the New Jersey fishermen or the Long Island fishermen are doing enough to preserve and maintain a steady flow of this fishery, but some folks in Pennsylvania and upstate New York who are concerned about tax shelters are more concerned about that steady flow of fish for the American consumer. None of this goes to the American consumer. All of it goes into the foreign market. I think you're right and I commend you for your comments.

Mr. TENZER. Mr. Chairman? Mr. Chairman, may I be heard briefly?

Mr. BIAGGI. Mr. Tenzer.

Mr. TENZER. My name is Herbert Tenzer. I have already been introduced.

This is not the first exemption of the Jones Act granted by this committee. If it were, I think it would be correct, what the gentlemen of the committee are saying. This was also not designed as a tax shelter, this project. This was designed as a new enterprise engaged in the fishing industry, in which the constituents of the honorable gentlemen are engaged.

What I think is of considerable concern to the members of the committee and to the Congress of the United States is that foreign vessels are the ones that have been fishing our seas and taking the product overseas because they failed for hundreds of years to hus-

band their wetlands as we have tried to husband ours. They have destroyed the spawning grounds for fish on the coast of Europe, and that's why they are using our waters.

What we should be concerned with is protecting the American fishing industry, yes, in Long Island, in New Jersey, in Maryland, and all along New England and the East Coast and the West Coast as well. But the Japanese fishermen on the West Coast and the European fishermen on the East Coast have been taking the catch out of our waters. There's plenty of fish out there. We're not getting it, and when we were getting it, we were not getting the best quality of squid and butterfish because it was not viable or feasible to attempt to bring it in on ice. It had to be brought in frozen to preserve the quality of the product as a fresh product of the sea.

That is why I would urge you gentlemen to give consideration to the *Holland*, not for any other reason. It's not a tax shelter. If the tax shelter develops and there may be a benefit to the investors, that goes in our American way, under our American laws, but the fact is that they did enter into an enterprise, take a risk, fish at sea. The result, as has been said, if there are some small fishermen catching squid and butterfish and bringing them in to the shore for freezing and it would take 1 or 2 or 3 days, the product became deteriorated and was not a high-quality product which was necessary for our American consumer market in order to be able to compete. Why shouldn't we compete with the foreign fishermen who are bringing their product to our shores and selling it here?

Mr. CARNEY. If I may, Mr. Chairman, I think this activity that's going on right here strikes against the spirit of the 200-mile limit. I don't care what anybody says. I can picture some people in Binghamton, NY and in Wilkes-Barre, PA, and the list goes on—West Wyoming, PA, Clifton, NJ, Kingston, PA—sitting around a fireplace saying, "My God, you know, there is not a continuity in the catch of squid in the United States. I wonder what we can do as great Americans, all 35 of us, to ensure this continuity of catch, because it's just not fair to 235 million people that we don't have this continuity. Why don't we invest in a vessel that will do just that?" And then someone said, "You know, there might even be a tax shelter involved in this." Heaven forbid. "Well, if the benefit is there, we'll take it, but we are not in it for the tax shelter on the investment."

Garbage. Garbage. This is a tax shelter, a high-risk investment, and it goes against the heart of the 200-mile limit. I am against it and I hope my colleagues are.

Mr. BIAGGI. You don't have much regard for those of us who love squid. [Laughter.]

Mr. BIAGGI. You know, Mr. Carney, I saw you eating in Dominique's not too long ago. They have gourmet food, and I know you enjoy the better quality of life.

Mr. CARNEY. I enjoy squid, I must admit. It's one of my favorites.

Mr. BIAGGI. Let's get it fresh.

Thank you, gentlemen. Oh, Mr. Parsons.

Mr. PARSONS. If I may, I don't want to delay, I just want to make one final point. I think this is important to the industry as a whole. We also recognize the need to support the smaller fishermen that do not have the freezer trawlers necessary and the capital. One of

the considerations that we are prepared to do, and I think it is important that we recognize this, particularly in Long Island and in New Jersey, is that a ship like ourselves must be in a position to buy fresh product from these smaller American fishermen. It is very important that they are not knocked out of the business, and we are here today to tell you that we are prepared to do that and we recognize that. It's just a point I wanted to make. In terms of where the industry is going, it's important that we recognize the smaller, privately owned fishermen that would in turn have to compete against ships like ours if they are not allowed to sell their product to us.

Mr. BIAGGI. Well, let me ask you this: You said the *Holland* is tied up. Correct?

Mr. PARSONS. Yes, sir.

Mr. BIAGGI. What are those fishermen doing with their product now?

Mr. PARSONS. All of those fishermen have, in fact, been laid off and we have had to, in turn, lay off processing people in our plants as well. Ultimately, the ship, we have plans. We want to fish in U.S. waters and provide a product in the United States for export. In lieu of that, we also have alternative plans to fish the product, fish the boat in the Central America, South America area under a joint venture, in which case we will be importing the product that they catch on our boats. There is a sad ending to this story. That is the alternative we have if we cannot, as a group of American citizens, use the boat in U.S. waters and provide jobs and export dollars for the United States.

Mr. BIAGGI. Yes. Thank you very much, gentlemen.

Mr. PARSONS. Thank you.

Mr. TENZER. Thank you, Mr. Chairman and gentlemen.

Mr. BIAGGI. Lucy Stone, executive director, National Federation of Fishermen; Raymond E. Gerson, managing director, Searay Partners, accompanied by Warren Lund, vice president, Lund's Fisheries, and Geir Monsen, vice president, Seafreeze, Ltd.

Ms. Sloan.

STATEMENT OF LUCY SLOAN, EXECUTIVE DIRECTOR, NATIONAL FEDERATION OF FISHERMEN

Ms. SLOAN. Thank you, Mr. Chairman.

I was much taken with the impassioned plea which the lessee of the *Holland* gave, but I am afraid I think that all of his arguments are absolute errant foolishness. He talks about a total, as I add it up and looking at the maximum amount he talked about, he talked about an investment of $1.25 million. We have one catcher/processor on the West Coast that was recently built and is now fishing out there, that came in for $12 million, and in terms of jobs for 30 Americans or even with the multiplier effect for the processing, double that or triple it, even.

I have at this point probably 200 vessels delivering over the side, so it was with some bemusement that I noted that over-the-side deliveries and the extreme hazardness of those was one of the reasons the *Holland* was now seeking to fish for herself. I am sure that the masters of the 200-plus vessels I represent, delivering over the side

around the country, both off the east coast and the west coast, including the waters off Alaska, would be vastly entertained. Most of them tend to think that it is a situation where this is an opportunity, delivering over the side, for easier fishing operations.

Therefore, for that reason, although we certainly do appreciate that the *Holland* was a pioneer effort, we think that the example—as Mr. Saxton said—was picked up initially from the foreigners, and we have learned from it. I think that Mr. Carney's concern for the fishermen and Mr. Saxton's concern for the fishermen are the kinds of things about which we are concerned.

I am sorry that the *Holland* finds herself in a position now to require special legislation, but it was a risk and it didn't work. We have learned a tremendous amount from watching the foreigners, and by the by, the foreigners now fishing in our zone are fishing under license to the United States and are only fishing here because there are perceived benefits for them, so I think that also is something that we should take into consideration.

Both Mr. Gerson and Mr. Monsen, and Mr. Lund as well, I am delighted to see, are all here in a position to tell you much more about the growing fleet of catcher/processors on the east coast. Because there is nobody here today from the west coast, I would say that the fleet on the west coast and from the west coast fishing in Alaska is considerably larger, and for that reason, although we certainly applaud the initial effort which the *Holland* represented, we think that giving it a special exemption would not be in the long-term best interests for orderly development. I'm sorry that we are in that position, but I think that the benefits of not doing it greatly outweigh the opportunity to one operation.

Thank you very much.

[Ms. Sloan's written statement follows:]

PREPARED STATEMENT OF LUCY SLOAN

Good afternoon, Mr. Chairman, Members. I'm Lucy Sloan, Executive Director of the National Federation of Fishermen. NFF is the only national organization of commercial fishermen. Our members fish from Alaska to Mexico and from the Gulf of Maine to the Gulf of Mexico. Among the species they harvest are demersal and pelagic finfish, crab, salmon, albacore, tuna, shrimp, swordfish, lobster, clams, and scallops.

We strongly oppose exempting the vessel *Holland* from the US laws which now prevent her from catching fish in the United States' exclusive economic zone and landing those catches in US ports. It may be appropriate in the future systematically to reevaluate—and perhaps even, after careful consideration, to amend—US law. But, were we to do so, these amendments should not be implemented until those vessels built after 1976 have been amortized, or nearly so. It is not rational for orderly development, which is what we are seeking for the US fishing industry, to change the ground rules to provide a massive subsidy for one operation—which is exactly what this *Holland* proposal represents.

US fishermen have consistently sought to minimize government involvement in their businesses, and, in the last five years, have frequently, repeatedly urged modification or repeal of those programs which are perceived as 'easy money' for entry into or expansion within the industry. Even fishermen who've used the programs have acknowledged the problems with them, but they've said they'd be fools not to because their competition—including outside investors—could and would. We've said often in the last five years we do not want easy money because we fear short-term overcapitalization by people who have goals other than orderly, long-term development of the fishery resources. East and West Coast fishermen who have been displaced in or deprived of markets in the US by Canadian and other seafood imports agree in principle and in practice with Nova Scotian Fisheries Minister John Leefe, who reportedly said recently, "Subsidies are not the answer, for they more

frequently provide *illusions* of long-term stability at the expense of *real* long-term stability." [Emphasis added.]

The *Holland* appears to most of us in the industry to have been a bad investment from the beginning. To argue now that she needs this subsidy because transferring codends at sea is hazardous, that she can't get a steady, economical supply of fish from other vessels, and that she'll fish underutilized species—butterfish and squid—is absurd. All the US vessels delivering over-the-side in the US EEZ would be bemused, I suspect, to learn that this was especially hazardous. A steady, economical supply of fish may be a marketplace contradiction: prices must be competitive, or the supply will be erratic—and rightly so. And butterfish and squid are not underutilized. Butterfish is bycatch only for the foreigners; squids now in TALFF balance opportunities for the US industry and, quite likely, these TALFFs will cease before the *Holland* could be amortized. As for the *Holland*'s uniqueness, I'll let representatives of the growing US fleet of catcher/processors put paid to that.

Thank you.

Mr. BIAGGI. Mr. Gerson.

STATEMENT OF RAYMOND E. GERSON, MANAGING PARTNER, SEARAY PARTNERS, L.P.

Mr. GERSON. Congressman, I appreciate the opportunity to testify. I have a prepared statement here which I guess everyone has a copy of, and I would like to spare the committee, with their permission, my recitation of what it says.

Mr. BIAGGI. It will be included in the record in its entirety. Without objection, so ordered.

Mr. GERSON. OK. I would just like to comment that what I have heard today from the committee members is very encouraging and I think they understand the issue better than I could ever state it myself.

I was a founding partner in the *Holland.* I learned from the *Holland.* It was a cross I had to bear in financing the *Amfish* because, although it came over here successfully, it was not successful, which I attributed to bad management. I think Mr. Carney, Mr. Saxton, Mr. Bateman, and everyone else, I applaud their understanding of the issue here. It would just dilute everything that I have done since then, and everything that Warren Lund, Geir Monsen, and the 10 or so vessels that are under construction on the east coast, a dozen vessels on the west coast.

If there are any questions, I would be happy to answer them. I think that Mr. Monsen and Mr. Lund also had some brief comments.

[Mr. Gerson's written statement follows:]

PREPARED STATEMENT OF RAYMOND E. GERSON

We are the owners and operators of the F/V *Amfish*, a 219 foot freezer stern trawler that was constructed in 1984 in Mississippi and has been fishing in the East Coast squid, butterfish, mackerel and other fisheries since January 1985. The *Amfish* is the first newbuilding freezer stern trawler to be built specifically for these fisheries.

The rationale behind the domestic construction of the *Amfish* is the development of the above so-called under-utilized fisheries off the East Coast. These fisheries, although protected and promoted by the Magnuson Fishery Conservation and Management Act, have not been ripe for domestic development without vessels capable of freezing the product at sea. Freezing at sea is the only way to preserve sufficiently the quality of the product so that it can be sold in the large and strong export markets. These fisheries do not have strong domestic markets.

The *Amfish* was built in the United States at a cost in excess of $8 million because the Jones Act says you can't fish in the United States if you are not built in the United States. It is well known that there is a surplus of freezer trawlers in the

world market, and a used vessel similar to the *Amfish* could have been purchased for under $2 million—except that it would not have American fishing privileges.

H.R. 485 would circumvent the Jones Act by giving the M/V *Holland*, Dutch-built in 1964, domestic fishing privileges.

There is no valid reason to give the *Holland* such privileges. The *Holland* was the first vessel to try to develop the under-utilized East Coast fisheries by taking product over-the-side from domestic fishing vessels at sea and freezing the product. The *Holland* now serves as an example of but one thing—bad management can ruin a good idea. I know. I speak from personal experience, as I was the one responsible for the *Holland*'s presence here. It was my responsibility, as one of the founding partners of Holland Associates (the vessel owner) to find a foreign vessel suitable for conversion to a mother ship, to effect that conversion and to bring her here. I have a general knowledge of the *Holland*'s subsequent operations and would welcome committee questions—although I do not think that the vessel's failure as a mother ship is particularly relevant to the case at hand.

If ever there was a case to enact a waiver from the Jones Act, the *Holland* is not one of them. No national or industry interest is served here—only the private interest of a failed venture. On the other hand, many companies—some of which are represented here—have invested, or are committed to investing, substantial sums of money in newbuilding Jones Act vessels and these efforts will be debased by allowing this type of unfair competition. Furthermore, when these scheduled construction programs are completed, it is quite likely that the target fisheries will no longer be "under-utilized" and the *Holland* would be competing (unfairly) for a scarce resource.

As of this writing, I am not sure whether the Pacific vessel owners have had a chance to comment on the proposed legislation. If not, I urge the committee to seek out these comments, as there are approximately one dozen Jones Act factory vessels in operation on the West Coast and I am confident they would be equally strenuous in their opposition to this Jones Act waiver. The same applies to the half dozen or so shipyards that have been involved in the construction of the Jones Act fishing vessels.

I do not believe that this committee should be in the position of changing the rules of the game once the game has started—especially for indefensible private interests.

Thank you for this opportunity to state our position.

Mr. BIAGGI. Mr. Monsen.

STATEMENT OF GEIR MONSEN, VICE PRESIDENT, SEAFREEZE, LTD.

Mr. MONSEN. Mr. Chairman, members of the committee, I thank you for the opportunity to speak in front of you. Seafreeze is a sales and service company representing four American freezer/trawlers. Seafreeze is partially owned by the freezer/trawlers. Three of the trawlers are used American vessels that have been taken out of groundfish operations on the east coast and one of the vessels is being built new at Washburn & Doughty shipyard in Maine.

We started operation with the first boat in November 1983, so we have close to 2 years of experience going into our phase of construction now, where we have three boats under construction, one coming out this month, one next month, and one in January of next year. Since the start of our project, we have continuously been contacted by sellers of used foreign vessels. Because of the Jones Act, we haven't even discussed the offers, even though the prices have been extremely low.

Based on present law, we have already collectively between the boats and our land facility under construction, committed over $8 million. For us, a bill like H.R. 485 feels like a big slap in the face. We feel that it is an attempt to change the rules in the middle of the game. Any used foreign-built vessels can be purchased for a

fraction of the price of a similar American vessel, and the same goes also for new boats. Many foreign governments even subsidize the sale of used vessels, the vessels that they want to get out of their own fleet. We believe that the *Holland* was originally purchased under such a subsidy program. I believe the EEC had a subsidy program to get herring vessels out of the EEC fishery at that time.

So here we have case where a vessel that was originally subsidized by a foreign government now is proposing to enter into the American fisheries and compete with similar American vessels that were purchased at American prices with no subsidy. We strongly oppose the bill and, most of all, we fear the precedents a bill like this would set. We know there are several hundred similar vessels for sale worldwide. We also know that there are many Americans presently not owning vessels that would like to purchase if they could. We think that if this bill passes you will soon receive a swarm of similar proposals.

The question of whether or not to allow foreign-built vessels to enter the American fisheries is a very complex problem. We don't think that a bill like this for one vessel deals with the problem. If foreign fishing vessels are to be allowed into American fisheries——

Mr. BIAGGI. Mr. Monsen, you said foreign vessels are a problem and this one vessel doesn't deal with the problem. What is the problem as you see it? We are asking about this one vessel.

Mr. MONSEN. We feel that there will be a number of other proposals similar to this. We know of some people that have the idea already and we, much more than this one vessel, fear the vessels that probably would come behind.

[Mr. Monsen's written statement follows:]

PREPARED STATEMENT OF GEIR MONSEN

Seafreeze Ltd. is a sales and service company representing four American freezer-trawlers. Seafreeze is partially owned by the trawlers. Three of the trawlers are used American vessels that have been taken out of East Coast ground fish operations to be converted to freezer-trawlers. One vessel is under construction at Washburn & Doughty Associates, Inc., East Boothbay, Maine.

The first vessel in operation was the "Huntress" which started operation as a freezertrawler in November, 1983. The "Huntress" is a converted groundfish trawler. The second vessel "Old Colony", also a converted groundfish trawler, will be ready to start operation this month. The third vessel "Atlantic Harvester" another converted groundfish trawler, will be ready to start operation in October 1985. The fourth vessel "Huntress II", now under construction in Maine, will be ready from the shipyard in January 1986. Also, we are now starting construction of a land facility to support these vessels at the old Quonset/Davisville Navy Base in Rhode Island. The total project cost for all four vessels and the land facility is above eight million dollars. The projects are financed by a large percentage of private capital from the owners as well as financing from local banks and the Small Business Administration. All four vessels will concentrate their fishing effort on fish species that have been designated by National Marine Fisheries Service as under utilized like mackerel, illex squid, loligo squid, herring and butterfish. Almost 100% of our products are designated for export.

Since the start of our project, we have continuously been contacted by sellers of used foreign built freezer trawlers. Because of the Jones Act, we have not even discussed the offers even though the prices have been very attractive. Based on present laws, we have already committed millions of dollars and our whole future in American built vessels at American prices. For us, the HR 485 feels like a big slap in the face and we feel that a bill like this is an attempt to change the rules in the middle of the game.

Any used, foreign-built vessel can be purchased for a fraction of the price of a similar American vessel. Many foreign governments even give the seller a large subsidy to make the selling price even lower for vessels they wish to get out of their own fleet. We believe the vessel "Holland" was sold under such a subsidy program. Here we have a case where a foreign government is subsidizing the already very low cost of a vessel that is now proposing to enter the American fisheries and compete with similar American built vessels, purchased at American prices with no subsidy.

We strongly oppose this bill and we fear the precedents a bill like this will set. We know there are several hundred similar vessels for sale worldwide at very low prices. Also, there are many Americans who presently do not own any fishing vessels that would like to purchase if they could. We think that if this bill passes, you will receive a swarm of similar proposals in a very short time.

The question of whether or not to allow foreign built vessels to enter the American fisheries is a very complex problem and a private bill does not seem to be the right way to deal with this kind of problem. If foreign vessels are to be allowed into American fisheries, there will be many negative effects on the fishing industry, the shipbuilding industry, the balance of trade and the national economy. In our opinion, the negative effects will, at present, far outweigh the positive effects.

Within its 200 mile economic zone, the United States of America has the greatest fish resource of any country in the world. Like ourselves, many people and organizations on the East and West coasts have made and are in the process of making, large investments in vessels. If this development continues, in a relatively short time, we will be able to increase the American harvest, within the 200 mile zone, to the point of full American utilization of the available fish resources. This development will create a lot of sound economic activity both in the shipbuilding industry and in the fish industry. It will also greatly help our balance of trade on fish products which is especially lopsided.

To change the rules now and allow the "Holland" to fish is not going to help this development. It will create a lot of uncertainty and probably stop any planned investments not yet made in American built vessels. If more bills like this were passed, you would put all the investments already made in jeopardy. It is very difficult to compete in a tight market with a similar vessel that cost only a fraction of the cost of your own vessel.

Mr. BIAGGI. You're talking about one vessel that showed the way. That's the only question. We're familiar with all the other problems. We're familiar with the criteria. The question is, do you think there is sufficient equity here since the *Holland* demonstrated it was feasible in this area? We know the Europeans did it but they weren't doing it in this area. The question is, is there sufficient equity here to justify the enactment of this legislation?

Mr. MONSEN. We feel no. The *Holland* didn't show us anything. We traveled around the world to various countries, looked at various types of vessels, learned from that. We didn't learn anything from the *Holland*. We made our decisions based on that. We used American vessels.

Mr. BIAGGI. OK. Thank you.

Mr. SAXTON. Would the gentleman yield, the chairman?

Mr. BIAGGI. Sure.

Mr. SAXTON. Did the *Holland* show you anything in terms of different technology that you didn't already know?

Mr. MONSEN. No. It showed us all the wrong ways, if anything.

Mr. BIAGGI. Well, clearly, they were operating in a profitable fashion. Their only problem was getting enough fish, and that's what they are here for. Your response to that question is hardly, I think, of any great significance. They obviously were functioning in a method in which they would like to continue to function. Their problem is, they haven't been able to get a constant supply and would like the ability to fish themselves.

The question boils down to, is there enough equity to warrant an exemption since *Holland* and its owners demonstrated it is feasible

in these waters? That's all. That's the question for the members. We are familiar with all the other considerations.

Mr. Bennett.

Mr. BENNETT. Well, I would like to ask this question. I am not so sure I understand this, but if this is granted, are these people competitive to you?

Mr. GERSON. Yes; they certainly are.

Mr. BENNETT. You have a little bit of a conflict of interest? That is a question mark. Before you answer that question I'll say there is nothing wrong about your having a conflict of interest. It's just something that we ought to look at. I mean, a conflict of interest just means that you've got a reason to oppose them. It's perfectly appropriate to hear you. It doesn't mean anything is dirty about your saying it but it does put it in perspective. In other words, these are people who will compete with you, and you feel that for some reason it would be unfair competition. Could you explain why you feel it would be unfair?

Mr. CARNEY. Would the gentleman yield on that question?

Mr. BENNETT. Well, why don't you let me yield after they reply? You could polish it off but I don't think you can improve on my question. [Laughter.]

Mr. CARNEY. No. I think the gentleman asks a great question. It goes right to the heart of the matter. You are correct, there is a conflict of interest with this witness.

Mr. BENNETT. Well, it's perfectly all right for them to have a conflict of interest. There is nothing wrong. You don't have to feel dirty about it. It's perfectly sound. It's a proper thing to do.

Mr. CARNEY. No, I understand that.

Mr. BENNETT. I would really like to have explained to me now what the conflict of interest is? Why you feel it would be unfair to have him come in.

Mr. GERSON. If I may respond, the conflict of interest is very simple. We're two teams playing with different sets of rules, and we're trying to prevent that from happening.

Mr. BENNETT. Now explain why you have two different sets of rules. What set of rules are you playing under?

Mr. GERSON. Because our set of rules was, if you're not built in the United States, you can't fish in the United States, so we invested $8 million in an American freezer/trawler, and the Holland Associates invested $1 million in *Holland* and seeks the same privileges.

Mr. BENNETT. Well, that's what I wanted to make clear for the record. Is there anything you want to add to that?

Ms. SLOAN. Yes; I would like to add something to that. Going to the question of equity and precedent and the question of conflict of interest, I cannot reinforce strongly enough the number of times that people have considered over the last 9 years trying to do what the *Holland* did, and there have been a number of reasons why it hasn't worked. I think Mr. Bateman is very courageous in the stand that he took, and we appreciate that. If that opportunity is not available to all U.S. citizens, it should not be available to any. It may very well be, as I commented in my testimony, that at some time it might be appropriate to look at amending laws—look at it, not do it necessarily, but give it across-the-board consideration.

Mr. BENNETT. You are sort of saying to me that you had to invest a lot more dollars to put yourself in the position where you can do that. If we pass this legislation, he would be allowed to do with the consent of the U.S. Government, at much less cost. The reason you had to spend more money was because of a Federal law that he is now asking to be waived. Is that right?

Mr. GERSON. Exactly.

Ms. SLOAN. Exactly.

Mr. BENNETT. OK. Now if you can improve on that, try, Mr. Carney.

Mr. CARNEY. One of the parts that I was trying to bring out, too, is that there are other joint venture vessels built outside the United States that would have to compete against a different set of rules, too. We are trying to maintain a flat playing field for everybody. When the *Holland* is in a joint venture, American vessels fish the catch, give it to the *Holland*, they are in here under that authority that this committee established. Any other foreign-built vessel that is going to process American-caught fish plays under the same ground rules but, if we let the *Holland* fish as well, it throws it out for everybody—the American fishermen and the other people who were involved in joint ventures. They are going to say, "Hey, I don't want to bring my vessel in here," and that is not going to help the American fishermen at all if we don't have the joint ventures for the underutilized fishing, so to maintain a flat playing field I would hope we would defeat the bill.

Mr. BIAGGI. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

It is my privilege to introduce Warren Lund, who is the next witness. I have known the Lund family for probably as much as 40 years. My father had a fish market many, many years ago and the Lund Fisheries was one of the places that my family visited to pick up their supply of seafood. He is a prominent fisherman, an entrepreneur who has shown a great deal of leadership. We are proud of the fact that the Cape May area is developing one of the largest fisheries on the east coast.

Mr. BIAGGI. Are you dealing with squid?

Mr. HUGHES. We are doing it with squid, yes. As a matter of fact, squid has become one of the primary species that Lund Fisheries is after. I just want to thank you, Mr. Chairman, for permitting me to sit with the subcommittee today and to introduce my distinguished constituent. Bill Carney and others have expressed my concerns about this particular transaction. I just think it is inequitable and it would create a tremendous problem. My constituent is building a $4.5 million vessel. He could have taken the shortcut if he thought that this was open to him, but he didn't. He is building that vessel with American products and American workers, and that's what we are trying to encourage.

I will introduce my distinguished constituent, Mr. Lund, for his testimony.

STATEMENT OF WARREN O. LUND, VICE PRESIDENT, LUND'S FISHERIES

Mr. LUND. Thank you, Mr. Hughes.

May I just say that the industry certainly is proud of having people like Mr. Hughes and Mr. Saxton from the State of New Jersey. Without them, it would have been difficult.

I am Warren Lund, and I am here to testify against licensing the *Holland*. I represent the fishermen in the Cape May area. I have been in the fishing industry for 40 years in the mid-Atlantic region. Cape May is the second largest fishing port on the east coast and we are growing very rapidly. I feel that I am able to speak for the industry down there. As Mr. Hughes said, we have been selling fish a long time, but I'm not near as old as he pictures me to be. [Laughter.]

Mr. HUGHES. The Lund family, I said.

Mr. LUND. OK, my father.

We would like to go on record as opposed to permitting the fishing vessel *Holland* to direct fish. We don't feel it is fair. I have an interest in supporting the seafood industry, and I am building a factory vessel for $4.5 million. This vessel is one of the many being constructed for our area. We are working to advance the industry, and also we have been encouraged by the fishing councils and the Government to go this route. Because of the large amounts of money invested by our fishermen, we do not feel it is fair to permit the *Holland* to take the short, direct route.

The *Holland* has not helped our industry, either directly or indirectly. Therefore, we feel it would not be fair for the *Holland* to take the shortcut. The owners of this vessel knew that they could not fish directly when they bought the vessel, and we feel that it is not the Government's responsibility at this time to protect them and bail them out. We do feel that it is the Government's responsibility to protect our domestic investments. By changing the laws, our vessel would be greatly disadvantaged, as well as the shipyards that have worked so hard to supply the industry with good vessels and to make seaworthy boats for us.

I will cut off my remarks there and say thank you very much. I certainly feel it is a privilege to be here to testify in front of this honorable group. Thank you.

Mr. BIAGGI. Thank you very much.

Mr. BENNETT. Your opinion of the Congressman is well placed. He is an excellent Congressman.

Mr. BIAGGI. Mr. Hughes is a most valued member of this committee and a great Member of the House, and from my own perspective he is a man of extraordinary integrity, extraordinary, for which we are all very grateful. I envy the long years of friendship that you have enjoyed.

Any comments, gentlemen?

[No response.]

Mr. BIAGGI. Thank you very much, ladies and gentlemen. The hearing is adjourned. We'll go into the markup.

[Whereupon, at 3:55 p.m., the subcommittee recessed, to reconvene immediately thereafter to consider markup of H.R. 739.]

[The following was received for the record:]

NINETY-NINTH CONGRESS

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CHIEF COUNSEL
EDMUND B. WELCH

MINORITY STAFF DIRECTOR
GEORGE D. PENCE

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515

September 9, 1985

TO: MEMBERS, SUBCOMMITTEE ON MERCHANT MARINE

FROM: Majority and Minority Staffs

SUBJECT: Hearing on the Granting or Restoration of Coastwise Trading and Fishing Privileges to Various Vessels (Thursday, September 12, 1985)

HOLLAND (H.R. 485)
MARILYN (H.R. 739)
JANE E and DIANE M
(H.R. 743 and 735, both bills include both vessels)
ROYAL STAR (H.R. 2638)
ALASKAN SHORES (H.R. 3097)
SHEARWATER (H.R. ____)

The Subcommittee on Merchant Marine will hold a hearing on a number of bills to clear certain impediments to the licensing of vessels for employment in the coastwise (including the Great Lakes) and fisheries trades of the United States.

Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) provides that a vessel built in the United States and sold to an alien loses its coastwise trading privileges and its right to engage in the fisheries of the United States. In some of these cases, the owners cannot provide the competent and persuasive evidence establishing the citizenship of each entity in the chain of title. Section 27 also provides that a vessel that is built in a foreign country cannot be granted coastwise trading privileges nor can it engage in the fisheries of the United States. These privileges are also not available when a U.S. citizen documents his vessel in a foreign country.

When the facts surrounding any particular vessel involve one or more of these statutory prohibitions, the Coast Guard will not issue a document granting coastwise trading privileges -- nor will it issue a document permitting operation in our fisheries.

A vessel may acquire coastwise trading and fisheries privileges through special legislation authorizing the Secretary of the Department in which the Coast Guard is operating to issue the necessary documentation, notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920.

In the past, the Committee has approved special legislation when the current owner established that he had suffered a type of hardship that would warrant an exception to the cabotage laws and thereby override the objections of those predisposed to opposition. Often the owner, after purchase or after spending considerable sums of money in U.S. shipyards to refurbish the vessel, learns of a defect in the chain of title or that it was built-foreign when he attempts to documer the vessel for commercial service. The Committee has also approved special legislation when the vessel or its operation was unique and documentation for commercial service was in the national interest.

The Administration consistently opposes any relaxation of the cabotage laws, absent some compelling reason. It feels that coastwise trading and fishing restrictions have been enacted to protect and foster United States maritime and shipyard industries and that any relaxation should be approached with caution. However, when the Congress has documented compelling reasons, the Administration has not opposed these special enactments.

The following is a brief resume of the facts about the vessels and the circumstances necessitating legislation:

HOLLAND (H.R. 485)

The HOLLAND, official number 636433 -- a vessel of 259 gross tons and 151 feet in length -- was built by N.V. Shipyard De Dageraad in Woubrugge, Holland in 1967. It is presently owned by Holland Associates, a limited partnership consisting of five partners. It is registered for the fisheries but is not authorized to engage in the coastwise trade or the fisheries of the United States. The HOLLAND cannot be used as desired because it was not built in the United States.

The HOLLAND, a former trawler, was purchased in 1981. It was extensively renovated in the United States at a cost of over $200,000 to provide a high quality freezing system. Since it cannot do its own fishing, it is dependent upon receiving fish for freezing from fishing vessels at sea. In other words, the HOLLAND is a floating refrigerator for anyone who wants to use its services. Recently, the HOLLAND has found it difficult to obtain a steady and economical supply of fishery products from other vessels. In addition, the transfer of fish at sea continues to create major hazardous problems. The owners, therefore, desire to do their own fishing for underutilized species like squid and butterfish. They are willing to spend approximately $150,000 to reconvert the vessel for trawling by the addition of ramps, reels, and winches.

JANE E and DIANE M (H.R. 735 and H.R. 743)

The JANE E of British/Bahamian registry, official number 315924, and the DIANE M of British/Bahamian registry, official number 315925, are sister vessels -- each of 133 gross tons and 80 feet in length. They were built by the Diamond Manufacturing Co., Inc. of Savanneh, Georgia in 1961. They are presently owned by Maritec Marine International of Jacksonville, Florida. The vessels cannot engage in the coastwise trade or the fisheries of the United States. Although they were originally built in the U.S., they cannot be used in our domestic commerce because they have been documented and reflagged in a foreign country.

The present owners purchased the vessels in 1983 for approximately $100,000 and have spent more than $25,000 for repairs since then. They would like to reflag the vessels and use them as towing vessels in our coastwise trade.

MARILYN (H.R. 739)

The MARILYN, Maryland registration number MD 3533 AA -- a classic Grand Banks schooner of about 7 gross tons and 42 feet in length -- was built in Nova Scotia in 1935. It is presently owned by Van K. and Marilyn Nield of Annapolis, Maryland. It is numbered as a pleasure vessel and cannot engage in the coastwise trade or the fisheries of the United States. It cannot be used as desired because it was not built in the United States.

The present owners desire to use the vessel for charter parties, carrying not more than six passengers. The vessel was purchased in September 1978. Only after more than $75,000 was spent on its restoration did the owners learn that a foreign-built vessel could not be used in the coastwise trade. The schooner was rebuilt at Logan's Marine Service, Crisfield Shipyard, Crisfield, Maryland, and the total investment to date is close to $100,000.

ROYAL STAR (H.R. 2638)

The ROYAL STAR, Michigan registration number MC 9707 J -- a Chris Craft Roamer pleasure vessel of about 5 gross tons and 35 feet in length -- was built in Holland, Michigan in 1960. It is presently owned by Kenneth J. Schmidt and is registered as a commercial charter boat by the State of Michigan. It cannot engage in the coastwise trade or the fisheries of the United States because of a defect in its chain of title.

The present owner desires to use the vessel for the carriage of passengers who charter the vessel for fishing. The vessel was purchased in March 1984 for $13,500. Soon thereafter, the owner was requested by the Coast Guard to produce documentation showing a continuous chain of title of ownership by U.S. citizens. The owner was not able to do so because records kept by the State of Michigan either were not available or were incomplete. Therefore, alien ownership in the chain of title is presumed.

ALASKAN SHORES (H.R. 3097)

The ALASKAN SHORES, official number 603879 -- a vessel of 428 gross tons and 125 feet in length -- was built in Ambridge, Pennsylvania in 1945. It is presently owned by Carl E. Moses of Unalaska, Alaska. It is registered for the fisheries, but is not authorized to engage in the coastwise trade or the fisheries of the United States because of alien ownership in its chain of title.

Its present owner desires to use the vessel in the coastwise trade, and the restriction makes it impossible to obtain financing for the necessary and desirable conversion. The vessel had previously been sold to foreign interests; however, it was never operated by them nor did it ever leave the United States.

SHEARWATER (H.R. TO BE INTRODUCED)

The SHEARWATER, official number 260827 -- a vessel of 58 gross tons and 65 feet in length -- was built by Shain Manufacturing Company of Seattle, Washington in 1942 for the U.S. Navy as a ferryboat. It is presently owned by Jack Walsh of San Diego, California. The vessel is numbered in the State of California as CF 9251 FV. It is not authorized to engage in the coastwise trade or the fisheries of the United States because of a defect in its chain of title.

The SHEARWATER was decommissioned by the Navy in 1946 and sold to a private party in 1950. It was rebuilt and then served as a harbor cruise ship, authorized to carry upwards of 100 passengers in the San Pedro/Long Beach area for the next 27 years. In 1984, the present owner began to rebuild the vessel; and, as of March 1985, one-third of the original hull planking had been replaced, 90 percent of the hull fastening below the waterline had been replaced, and new oak sister ribs had been installed. After great expense it was discovered that the vessel had at one time been sold to a U.S. resident alien.

cc: Members, Committee on Merchant Marine & Fisheries

V

99TH CONGRESS
1ST SESSION

H. R. 485

To clear certain impediments to the licensing of the vessel Holland for employment in the coastwise and fisheries trades.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1985

Mr. BIAGGI introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To clear certain impediments to the licensing of the vessel Holland for employment in the coastwise and fisheries trades.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act. 1920 (46 App. U.S.C. 883), as applicable, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the vessel Holland, official number 637433.

BEST COPY

V

99TH CONGRESS
1ST SESSION

H. R. 735

To clear certain impediments to the licensing of the vessels Jane E and Diane M for employment in the coastwise and fisheries trades.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 1985

Mr. CHAPPELL introduced the follcwing bill; which was referred to the Committee on Merchant Marine and Fisheries.

A BILL

To clear certain impediments to the licensing of the vessels Jane E and Diane M for employment in the coastwise and fisheries trades.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable, the Secretary of the Department in which the Coast Guard is operating may issue a certificate of documentation for the vessels Jane E, official number 315924, and Diane M, official number 315925.

I

99TH CONGRESS
1ST SESSION

H. R. 739

Relating to the documentation of the vessel Marilyn to be employed in the coastwise trade.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 1985

Mrs. HOLT introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

Relating to the documentation of the vessel Marilyn to be employed in the coastwise trade.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), or any other provision of law, the Secretary of the Department in which the Coast Guard is operating shall cause the vessel Marilyn, a foreign-built vessel substantially rebuilt in the United States and presently jointly owned by Van K. and Marilyn Nield of Annapolis, Maryland, to be documented as a vessel of the United States with the privilege of being employed in the coastwise trade upon compliance with the usual requirements other than any requirement that such vessel be built in the United States.

○

V

99TH CONGRESS
1ST SESSION

H. R. 743

To clear certain impediments to the licensing of the vessels Jane E and Diane M for employment in the coastwise and fisheries trades.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 1985

Mr. ST GERMAIN introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To clear certain impediments to the licensing of the vessels Jane E and Diane M for employment in the coastwise and fisheries trades.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable, the Secretary of the Department in which the Coast Guard is operating may issue a certificate of documentation for the vessels, Jane E, official numbered 315924 and Diane M, official numbered 315925.

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I

99TH CONGRESS
1ST SESSION

H. R. 2638

To clear certain impediments to the licensing of the vessel Royal Star for employment in the Great Lakes coastwise and fisheries trades.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 1985

Mr. RUSSO introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To clear certain impediments to the licensing of the vessel Royal Star for employment in the Great Lakes coastwise and fisheries trades.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of the Department in which the Coast Guard is operating may issue a certificate of documentation for the vessel Royal Star, hull number ROX 35-304, for employment in the Great Lakes coastwise and fisheries trade.

V

99TH CONGRESS
1ST SESSION

H. R. 3097

For the relief of the vessel Alaskan Shores.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1985

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

For the relief of the vessel Alaskan Shores.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the vessel Alaskan Shores, official number 603,879.

BEST COPY AVAILABLE

V

99TH CONGRESS
1ST SESSION

H. R. 3285

To clear certain impediments to the licensing of a vessel for employment in the coastwise and fisheries trade in the United States.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 1985

Mr. BATES introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To clear certain impediments to the licensing of a vessel for employment in the coastwise and fisheries trade in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 888), as applicable on the date of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the vessel Shearwater, United States official number 260827.

U.S. Department of Transportation

General Counsel

400 Seventh St. S.W.
Washington, D.C. 20590

MAY 7 1985

The Honorable Walter B. Jones
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Transportation with respect to the following bills:

H.R. 485, a bill "To clear certain impediments to the licensing of the vessel Holland for employment in the coastwise and fisheries trade."

H.R. 735, a bill "To clear certain impediments to the licensing of the vessels Jane E and Diane M for employment in the coastwise and fisheries trades."

H.R. 739, a bill "Relating to the documentation of the vessel Marilyn to be employed in the coastwise trade."

H.R. 743, a bill "To clear certain impediments to the licensing of the vessels Jane E and Diane M for employment in the coastwise and fisheries trades."

Information available to this Department concerning these vessels is as follows:

a. The HOLLAND (Official Number 636433) is a 133 foot vessel of 293 gross tons that was constructed in the Netherlands in 1964, and currently owned by Holland Associates, a Virginia limited partnership consisting of FASS/HOLLAND, Inc. and Fisheries Development Corporation.

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b. The JANE E. (Official Number 315924) and DIANE M. (Official Number 315925) are medium size oceangoing tugs that were constructed in the United States for the Diamond Manufacturing Co. of Savannah, Georgia, in 1961. Both are of steel construction, 85 feet in length, with a net tonnage of 133 tons. These vessels lost coastwise privileges when they were placed under Bahamanian registry. They were purchased in February of 1984 by Maritec Marine, Jacksonville, Florida, for intended use as tow boats.

c. The MARILYN is a 42 foot schooner that was constructed in Nova Scotia in 1935. Substantial rebuilding was performed at Logan's Marine Service, Crisfield, Maryland.

None of the above vessels qualifies for operation in the U.S. coastwise trades or in the fisheries because they were either constructed abroad or operated under foreign registry. The subject bills would waive this impediment and permit such operations.

The Department of Transportation is opposed to the enactment of H.R. 485, H.R. 735, H.R. 739 and H.R. 743.

Since the founding of the Republic, coastwise trading and fishing restrictions have been enacted to protect and foster the U.S. maritime industry. Absent some compelling reason, the Department of Transportation opposes any relaxation of this longstanding policy. At the present time, we are unaware of any such reason with respect to any of the above vessels. In particular, we are opposed to H.R. 735 and H.R. 743 that would permit the JANE E and DIANE M to be reflagged and operated as tow boats in the coastwise trades. Additionally, it would appear that the HOLLAND is intended for use as a fishing vessel, and we oppose H.R. 483 that would authorize this foreign-built vessel to be operated in the U.S. fisheries. This Department is unaware of any shortage of qualified U.S. tow boats and fishing vessels that would warrant these bills. Finally, we are unaware of any compelling reason why the vessel MARILYN should be permitted to engage in commercial operations in the coastwise trades or fisheries, and oppose H.R. 739.

Should the Congress find that such compelling reasons exist with respect to any of these vessels, we recommend that the bill be amended to conform with standardized language in order to forestall any interpretative or administrative confusion. For your convenience, such language is enclosed as an appendix.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

Jim J. Marquez
General Counsel

Enclosure

Appendix.

Substitute Draft Bill for H.R. 485

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That, notwithstanding the failure of the vessel Holland, official number 636433, owned by [_____], to meet the requirements of sections 12105(d), 12106(a)(2)(A) and (a)(3), 12107(a)(2)(A) and (a)(3), and 12108(a)(2)(A) and (a)(3) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) on the date of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for that vessel.

Substitute Draft Bills for H.R. 735 and H.R. 743

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That, notwithstanding the failure of the vessel Jane E, official number 315924, and the vessel Diane M, official number 315925, owned by [_____], to meet the requirements of sections 12105(d), 12106(a)(2)(A) and (a)(3), 12107(a)(2)(A) and

2

(a)(3), and 12108(a)(2)(A) and (a)(3) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) on the date of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for those vessels.

Substitute Draft Bill for H.R. 739

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That, notwithstanding the failure of the vessel Marilyn, owned by Van K. and Marilyn Nield of Annapolis, Maryland, to meet the requirements of sections 12105(d), 12106(a)(2)(A) and (a)(3), 12107(a)(2)(A) and (a)(3), and 12108(a)(2)(A) and (a)(3) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) on the date of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for that vessel.

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PREPARED STATEMENT OF HON. MARJORIE S. HOLT, A U.S. REPRESENTATIVE FROM THE STATE OF MARYLAND

Mr. Chairman, I appreciate having the opportunity to testify in behalf of my bill, H.R. 739, which would allow the documentation of the schooner, *Marilyn*, as a U.S. vessel to be used as a commercial cruise vessel on the Chesapeake Bay.

The *Marilyn* is for all practical purposes a new schooner, having been almost completely rebuilt in Maryland yards, at a cost greater than it would have cost to build her new in the United States.

Although she was originally built in Canada more than fifty years ago, she has spent nearly all of her life in this country, under numerous U.S. owners who have repaired and maintained her here.

As she will not be carrying more than five passengers for hire, she will not require U.S. Coast Guard inspections. Her owner's lifetime background and proficiency in the operation of all types of boats and ships will undoubtedly qualify him for the necessary licensing for the kind of operation he plans.

The owner was not aware at the time of his purchase that the *Marilyn*'s being built in Canada presented a problem; in fact, he did not find this out until he had made most of his total investment in her in U.S. yards.

Because of the uniqueness of his proposed operation, I do not feel that he poses a threat to any of the modern, fiberglass, or wooden yachts presently being chartered on the bay. His charters will be captained, catered, and personalized, giving four to five people the opportunity to cruise for several days aboard a traditional gaffrigged schooner.

I hope H.R. 739 will receive favorable consideration from this subcommittee. Thank you.

FOREIGN FACILITIES SCRAPPING

TUESDAY, DECEMBER 3, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Present: Representatives Biaggi, Anderson, Borski, Bennett, Bosco, Young, Shumway, Fields, and McKernan.

Staff present: Cyndy Wilkinson, Rudy Cassani, Jeff Oshins, Chris Goebel, Kip Robinson, George Pence, Gwen Lockhart, and Ann Mueller.

OPENING STATEMENT OF HON. MARIO BIAGGI, A U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK, AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. BIAGGI. The Subcommittee on Merchant Marine is meeting to consider H.R. 3362, a bill to permit three obsolete vessels to be scrapped in a foreign facility (*Pictor, Procyon,* and *Zelima).*

Legislation was enacted in 1980 authorizing the Government to sell these obsolete vessels for operation in the fisheries. The law stipulated certain conditions of sale, including a requirement that, if the vessels were not used in the fisheries, they would have to be scrapped in a U.S. facility.

The owners contend that, despite their best efforts to sell these vessels for use in our fisheries, they have been unable to do so because of the economic realities. This legislation is necessary, they say, because there are no shipbreakers active on the West Coast willing to undertake the job.

We will hear testimony today to explore these questions as well as the issue of windfall profits. If there is no controversy, we will mark up the bill immediately following the hearing.

At this point, I ask unanimous consent to place the following into the hearing record: a letter from the Shipbuilders Council of America dated November 27, 1985.

[The letter may be found at the end of the hearing record:]

We have the author of the bill, a valued member of this committee. I think his value is manifest in the fact that we bring this bill up by itself. We generally consolidate requests like this with other similar requests.

The gentleman from California, Mr. Bosco.

Mr. BOSCO. Thank you, Mr. Chairman.

I cannot thank you enough for holding this hearing on a bill that, though it only remedies a very, very small problem, it is in terms of its scope very important to some of my constituents.

I have a statement I would like to submit for the record. I will do that instead of speaking further on the bill.

Mr. BIAGGI. Without objection.

[The statement of Mr. Bosco follows:]

STATEMENT OF HON. DOUGLAS H. BOSCO, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman, I want to thank you and the subcommittee for addressing here today what I believe is a very serious but solvable problem facing Levin Metals Corporation. Certainly one of the important aspects of our political system that makes it second to none is our willingness to apply flexibility in those instances where established policy is not working. As I believe Mr. Lewon's testimony here today will attest, this is one of those instances.

First, I would like to underscore my support for the intent behind Public Law 96-260, which provides the statutory requirement for domestic scrapping of vessels purchased from the U.S. Maritime Administration. American shipyard workers should receive the maximum employment opportunities associated with the renovation or scrapping of such vessels. If there were in fact a west coast scrapping capability, I would then strongly support the application of P.L. 96-260 to the vessels in question. Unfortunately, as Levin Metals has documented, they have used their best efforts to sell these ships under this law to no avail. The reality appears to be that there are no longer any west coast industries either interested or capable of providing the necessary work.

H.R. 3362 offers a reasonable approach to this unique situation facing Levin Metals. It is clearly limited in scope and carefully designed not to set any type of precedent. Moreover, the preconditions in H.R. 3362, including a profit sharing requirement, will ensure careful oversight by the Secretary of Transportation.

In closing, Mr. Chairman, let me just state my hope that this subcommittee will recognize the basic questions of fairness and practicality involved here, and approve H.R. 3362 without delay.

Mr. BIAGGI. Mr. Shumway.

Mr. SHUMWAY. No statement, Mr. Chairman.

Mr. BIAGGI. Thank you.

Our witness is Robert Lewon, executive vice president of Levin Metals Corp. of Richmond, CA.

Mr. Lewon.

STATEMENT OF ROBERT LEWON, EXECUTIVE VICE PRESIDENT, LEVIN METALS CORP., RICHMOND, CA

Mr. LEWON. Thank you, Mr. Chairman.

I appreciate your hearing this bill. It is very, very important to us, even if it is small in the large scheme of things.

We bought these ships in 1981, 4 years ago, in the hopes of selling them primarily for use in the U.S. fishing fleet, as was intended under the law. Our backup, of course, was dismantling them in our facility in Richmond, CA.

We have had numerous conversations with people, everything from written contracts to long negotiations, to short negotiations, from principal companies to middlemen. We have advertised and done the prudent things one can do to sell the ships. None of those have realized a firm sale.

We are still working on it, but it appears to us the costs of converting these ships, estimated at several million dollars each, is just too high for what economic value they will bring to anybody that does that.

In the last several years, there has been a dramatic change, as well, in the ship dismantling in the United States, particularly on the west coast. Where there were eight or nine companies, there are none. I am not aware of a single company that dismantles ships on the west coast. I think there may be one on the gulf coast.

Our company was active in it, but the costs of labor, environmental control, insurance has put everybody out of business. Ship dismantling is done primarily in Korea, Taiwan, mainland China, perhaps India a little bit.

Complicating that, our operation in Richmond, CA, is on leased land. We were leasing from the city what was once Federal property, the old shipyard 3, the Kaiser shipyards. Our lease was terminated effective December 31 of this year. We, therefore, cannot wreck them ourselves.

We have contacted every other company that was ever in the field. None of them are interested. I have talked to shipyards at least briefly because it is just out of their field of expertise. They really do not want to get into ship dismantling. They are concerned with the environmental controls and are basically not interested.

We have reached the conclusion there is simply no choice for us. If we cannot offer them for dismantling in a foreign country, we are not sure what we can do. It has reached that point. We are sorry, but it has come to this point. Your help would be appreciated.

[The prepared statement of Mr. Lewon follows:]

PREPARED STATEMENT OF ROBERT LEWON

The three ships, S/S PICTOR, S/S PROCYON, AND S/S ZELIMA were purchased by Levin Metals Corporation on bid No. PD-X-1042 from the U.S. Maritime Administration on October 19, 1981. They were sold under Public Law 96-260 (94 Stat. 435) which required them to be sold for use in the U.S. fishing fleet or scraping in the United States. The ships were moved from Suisun Bay, California to our facilities in Richmond, California where they remain.

Although no bids were received from potential users of these ships, Levin Metals Corporation agreed that the government's intention had merit. We purchased the ships anticipating their ultimate sale for use in the fishing fleet or domestic scraping.

Levin Metals Corporation has used its best efforts to sell these ships under the terms of the original sale. We have advertised their availability in publications; we have used a series of independent businesses to explore several markets, and we have contacted several potential users directly. We have varied the price on the ships as low as $250,000 each, still without success. Prospective purchasers have all told us the initial price is not too important as the renovation cost is so much greater.

The dismantling of ships for scrap has changed drastically. Eight or ten years ago, there were about seven or eight ship dismantlers on the West Coast. Today, there are no companies active in this field. The following are companies that dismantled ships on the West Coast in recent years:

Levin Metals Corporation
Schnitzer Steel Products
Nicoli Joffe Corporation
The Learner Company
General Metals
National Metals
Hugo Neu-Proler
Scrap Disposal
Zidell Explorations

We have contacted each of these companies that remain in business and none of them are interested in dismantling any ships. There is virtually no ship dismantling left in the United States. The cost of labor, insurance, safety and environmental

protection have forced all out of this business. Most ship dismantling is currently done in Taiwan, Korea, India, etc.

In addition, shipyards (repair or building facilities) are interested in converting these ships to use in the U.S. fisheries. Indeed, so are we, but it does not appear to be possible at this time. We also discussed having a shipyard dismantle these ships; but these facilities have not dismantled ships in the past and really cannot do it now. They would rent us space, perhaps work on a cost-plus basis, etc., but the resulting loss would be staggering. I am sure this would not be feasible given the environmental and insurance constraints that exist today.

To complicate matters more, our Richmond facility is on leased property. Our landlord (The City of Richmond) terminated our lease effective December 31, 1985. We are in the process of vacating the premises now and it is no longer possible for us to dismantle the ships.

Levin Metals Corporation, in an effort to solve this problem, suggested to MARAD that we try to change the law to allow foreign dismantling of the ships. Levin Metals Corporation further suggested that we share any profit with MARAD. For the record, our approximate cost in each ship is:

Purchase price	$137,000
Storage, maintenance, insurance and interest costs	180,000
Total cost (Nov. 1, 1985)	317,000

As suggested by Committee Counsel, Levin Metals Corporation will gladly share any "windfall profits" with the government. We suggest one-third of any profit, after costs, as proper for the government's share. The overseas market is volatile; ocean going tug boat costs are very high, but this is a viable alternative.

In summary, every effort was made to market these ships for use in the U.S. fishing fleet. This is just not economically viable. It is no longer possible to dismantle these ships in the United States as originally planned. Foreign dismantling is the only option available to us.

Thank you for your help

Mr. BIAGGI. Are you aware of any opposition to this legislation?

Mr. LEWON. No, I am not.

Mr. BIAGGI. It is my understanding that when you picked up these ships, you were aware of the law; you were aware of an obligation; correct?

Mr. LEWON. Yes.

Mr. BIAGGI. You say you made efforts to sell them?

Mr. LEWON. Yes.

Mr. BIAGGI. Could you describe in more detail the efforts made to sell these vessels under the terms of the original sale?

Mr. LEWON. We advertised them first in two or three publications that would go directly to the fishing companies. I believe we had fliers mailed directly to several companies we could identify that would be interested. There was a series of what I will call "middlemen" who did not have the money but had the knowledge of the field, who worked actively both with us and MarAd on this.

There has been literally—I don't know—100 to 200 contacts made to sell them. It all comes back to the same thing: It is just too much money.

Mr. BIAGGI. Were you asking too much money?

Mr. LEWON. No. The costs of converting each ship is several million dollars.

Mr. BIAGGI. How much was it?

Mr. LEWON. The cost of converting each ship, I was told—this is not our field—was several million dollars each. To make them for use in the—as a——

Mr. BIAGGI. What is the value of the ship?

Mr. LEWON. For—that we asked for?

Mr. BIAGGI. No; present value.

Mr. LEWON. There is a negative value today, unless this bill goes through. Then there will be a positive value of—well, I would say somewhere between $200,000 and $500,000 each where they sit in today's market.

Mr. BIAGGI. If this bill passes, what happens to that value?

Mr. LEWON. It will become $300,000 to $500,000 each where they sit, we hope. It depends upon what it will cost us to prepare them for towing and what the towing charges are.

Mr. BIAGGI. Right now, what are they worth?

Mr. LEWON. Frankly, they would have a negative value. I am not sure what we could do with them.

Mr. BIAGGI. What did you pay for them?

Mr. LEWON. $137,000 each.

Mr. BIAGGI. MarAd sold these vessels in 1980 for what equates to about $22 a ton. In the interests of promoting U.S.-flag fish processing vessels, we have been told they could have sold these vessels for scrap at about $50 a ton. This means the Government lost an estimated one-half million dollars.

Will your one-third reimbursement formula provide this amount to the Government? If not, why not, since I understand Taiwan scrap price is about $115 a ton?

Mr. LEWON. I just returned from Taiwan. The price on tankers, which are clean-cut ideal ships, is around $110. If mainland China were included as a possible point—they are at about $118 on that type ship. So if we had to go to China, we would compete—excuse me, Taiwan—we would compete with $110 tanker market.

These ships are worth $10 less than a tanker because of the insulation, the type of cutting—maybe $15. We are not sure until you go to the market. The most you can hope for in today's market, which we hope will go up, is about $100 less the cost of getting them there. That varies as to whether you can do two or three at one time and a few other considerations. But it will be at least $250,000 per ship.

Mr. BIAGGI. Has MarAd mentioned reimbursement levels during discussions you might have had on scrapping?

Mr. LEWON. No. When this first came up, I suggested to them we share the profit somehow, before this came up. They have agreed that we have used our best efforts, that they took a gamble, too, to see if it would happen.

Again, I don't want to put words in their mouth. I don't believe they have any problem with this.

I suggested a third—frankly, I hope that third is a half a million dollars. I wish it was, because we will come out ahead. I am just not superconfident that that is going to happen. It could be that the total profit, you know, is more in the half-a-million-dollar range, to be split.

Mr. BIAGGI. You suggest one-third of any profit after costs is proper for the Government's share. You stated that if the bill were enacted, it would go from $300,000 or $400,000 negative to $300,000 or $400,000 positive.

Is that correct?

Mr. LEWON. It would go from some negative, because I don't know what we would do with them today, to a million less, yes. I would hope it would be $300,000 to $500,000 positive; yes.

Mr. BIAGGI. You suggest one-third. Why shouldn't the Government share equally?

Mr. LEWON. There is no reason, Mr. Chairman. I was asked to put what I would suggest. Being a prudent businessman, I put what I thought was fair, given all the time we have had it. There is a lot of cost in selling the ships, too.

Mr. BIAGGI. You said after costs.

Mr. LEWON. I have——

Mr. BIAGGI. One-third after costs.

Mr. LEWON. We haven't planned on using selling costs. I meant direct costs. But OK.

Mr. BIAGGI. Mr. Bennett.

Mr. BENNETT. I listened to what you said. It sounds interesting to me and possibly something that could be worked out.

I would like to have page 2, the language starting at line 5, changed to say something about half of the profits. But then I am a little bit inquisitive about the language of the last two lines, because as compared to profits which would be realized if such vessels were scrapped in the domestic market, why couldn't you leave that out and say instead of a reasonable sum, say half of the profits?

I am thinking about passing the bill on the floor. In other words, as it is, it is sort of confusing. It could get muddled up.

The fact is—that you don't understand it might make the bill die. If you said the Government was going to pick up half the profits, I believe it would pass without much problem. That is my feeling about it. I think it ought to be clarified to say half the profits. That language seems to be negotiated. Just say half the profits. I believe that would pass the bill.

As it is, I think it might not pass because of confusion on the floor.

Mr. LEWON. I have no objections to half the profit. Again, after cost. There is a tremendous cost.

Mr. BENNETT. I agree. I think that would make it easier to pass.

Mr. BIAGGI. Thank you, Mr. Bennett.

Mr. Anderson?

Mr. ANDERSON. I have a question. I was contacted a little while ago by the Port of Los Angeles. They expressed opposition to the bill in that they named two facilities able to scrap ships: National Metals, and the Hugo-Neu-Proler facilities.

Mr. LEWON. Their information is extremely old. National Metals lost their lease.

Mr. ANDERSON. I'm aware of that, but another company may be coming to take its place.

Mr. LEWON. No.

Mr. ANDERSON. Richard Neu is still there.

Mr. LEWON. He is not interested in scrapping ships. I called everybody on the list. National Metals called me to see if we could scrap a ship for them less than a year ago. I asked them if they would be interested. They said not at any price.

I talked to the Neus. They are not interested at any price.

All of these facilities, both have dismantled ships in the past. Like ourselves, they find there is no way they can do it economically. They are not interested any more. That is strictly in the past. I talked to both of them.

Mr. ANDERSON. There are scrapping facilities in the Los Angeles Port, two of them. I think there maybe some in the Long Beach area.

Mr. LEWON. Those are the two that were in ship dismantling. As I said, National Metals no longer has a facility as of the first of the year. Neu-Proler has gone out of that, I believe 4 or 5 years, or more. They have no interest in wrecking a ship. They have waterfront. That is where they load the ships.

Mr. ANDERSON. Is there any chance of our checking into this further?

I was called this morning by Don Mussmann of the Port of Los Angeles who expressed opposition to this bill on the grounds that there are facilities at the port that are capable of doing this work, and implying that there were more than two.

Mr. LEWON. I can only tell you that I have been in that field for quite a while. I talked to everybody. I think I supplied in my testimony a list of eight or nine companies, which includes National Metals and Hugo-Neu-Proler.

Again, I did talk to them.

Mr. BIAGGI. Will the gentleman yield?

When was the last time you spoke to that company?

Mr. LEWON. Both of them within the last 6 months, 6 to 8 months. National Metals may be a little longer than that; Hugo-Neu-Proler, less than that.

Mr. BIAGGI. Mr. Anderson, what is the source of your information?

Mr. ANDERSON. This morning, I was called by Don Mussmann of the Port of Los Angeles. He stated the port's opposition to the bill. He mentioned that both of these firms would be able to scrap those ships in the Los Angeles area.

I know there has been a change at the National Metals site. Somebody else however, may be moving in to take their place. I don't know if they are in the same business or not. I understand there was a scrapping firm to be headquartered in Orange County.

Mr. LEWON. No. I am familiar with that. No. Unfortunately, it is a nonscrap use.

Mr. BENNETT. Will the gentleman yield?

One thing that passes through my mind is that people that are in the business of building ships obviously can scrap a ship, so there are places that could scrap a ship, theoretically, all over the United States. So, there must be an economic factor that figures into this; that they don't want to do it for some reason. I guess because they could use their facilities better for building ships.

As Rayburn used to say: Any jackass can kick a barn door down, but it takes a carpenter to build one.

I would say that maybe the economic factor figures in. Maybe you can throw light on this for us.

Mr. LEWON. That is a good point. Anybody with enough water and a waterfront facility can physically dismantle a ship. There are

plenty of facilities. It is economically impossible because of, one, labor rates; and two, the costs of environmental protection.

These ships all have oil on them. To control that is tremendous today. These particular ships have some asbestos on them. I don't have to tell you what is involved with that. Insurance put one company, I am aware of, out of the business several years ago. The costs of insurance even before this last dramatic change in the last year or so was prohibitive.

Mr. BENNETT. Aren't you saying to us if you did undertake to get this ship dismantled and scrapped, the amount of dollars—aren't you implying the amount of dollars involved in it would be just pro bono publico, because you would actually be going in the red; you wouldn't make anything?

Mr. LEWON. There would be a large loss.

Mr. BENNETT. So, here we have something that is dangerous, has oil, asbestos in it. We have a chance for the Federal Government to pick up a buck or two. Sounds reasonable to opt in this direction, to me, unless somebody is able to find a better answer.

Mr. BIAGGI. My only concern is the point that the gentleman from California, Mr. Anderson, makes. I think that the staff and the committee should pursue that.

Mr. BENNETT. I agree.

Mr. BIAGGI. We should see what the situation is.

Pending that—and I know Mr. Shumway has something to say and has been patient in deferring to the gentleman from California, we can proceed, and then deal with the matter in the full committee.

Mr. Shumway, I apologize. I am thankful for your indulgence.

Mr. BENNETT. I am sorry.

Mr. SHUMWAY. That is all right. You asked good questions.

I am interested in terms of evaluating the economics of this proposition.

Do you know what the cost of towing these three ships to a dismantling facility in either Taiwan or Korea or India would be?

Mr. LEWON. I will say approximately $250,000 per ship. That could be off considerably if a lot of repairs were required to make them seaworthy, whether they had to go one at a time, whether you could take two in tandem. It varies a bit.

Mr. SHUMWAY. Is there any way of taking all three of them in one tow so you wouldn't——

Mr. LEWON. We are confident we could do two. We are not so sure we can do three.

Mr. SHUMWAY. What would the cost to tow them to a U.S. yard in the gulf or east coast be, by contrast?

Mr LEWON. I don't have the exact figures. Going through the canal, I am not sure they would allow it. If they did, it would probably be up in that range or higher.

Mr. SHUMWAY. I guess this is still early, but do you have any idea what you would use, U.S. or foreign tugs, to tow the vessels overseas?

Mr. LEWON. I really do not. I am not sure of that marketplace. As I recall, there is a lot of U.S. tugs that do that work. I could be wrong. It has been a while since I checked that.

Mr. SHUMWAY. I am interested in how this thing came about in the first place. I expect Levin Metals Corp. is not in the business of brokering ships.

Did you have prior experience in this area? What was it that led you to get into this proposition?

Mr. LEWON. That is a good question.

Mr. Levin recognized the same thing I think MarAd did—that there was a real potential here. He thought it would go. He thought given a little time for economic conditions to change, that a major company, Castle Cook, something like that, would come along and want to convert them. He bought them on that basis thinking we could wreck them in our facility.

As I said, that changed dramatically in the last few years. His hope was they be sold into the fishing fleet.

Mr. SHUMWAY. Did you have a potential buyer lined up?

Mr. LEWON. Not at that time, no. We had people offering us joint ventures and different things, but none of them materialized.

Mr. SHUMWAY. Did you know at that time that your lease for the Richmond facility was going to be terminated?

Mr. LEWON. No.

Mr. SHUMWAY. When did you first find that out?

Mr. LEWON. I believe it was in 1982.

Mr. SHUMWAY. Could you have started to dismantle the ships before that notice was given?

Mr. LEWON. Physically, it was possible, yes. If in that period we had started, we probably could have got it done. We did have some other vessels we were finishing first. We had a complication that we actually had a contract for sale at about that time, for going in the fishing fleet and everything, all done through MarAd. We had hopes it would actually go through. But they were never able to get the financing for basically the conversion.

So it was in that period we were really optimistic they would be sold. It seemed we had a lot of interest until people had them surveyed and got their bids from various repair facilities for conversion.

Mr. SHUMWAY. So at the time you could have done the dismantling, you didn't want to do so because you thought you could sell them?

Mr. LEWON. That was the purpose of our company and the Government at that time. We were still optimistic. As I said, I had written contracts. But, again, I don't think we really gave up until about a year ago, until we realized we were really probably chasing a rainbow.

Mr. SHUMWAY. Now that you have lost your lease, are you going to be out of the ship dismantling business in the future? Are you just in an in-between period where you are looking for a new location?

Mr. LEWON. No. We have a location. We will not dismantle ships. It can't be done today economically. It is not even close.

Mr. SHUMWAY. Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you.

Any further comments, questions?

Mr. BOSCO. Mr. Chairman, if I may make a comment?

I am certainly concerned about the Port of Los Angeles' objections to the bill. I would be happy to commit myself to talking with them.

On the one hand, if there are facilities in that area, I think Mr. Lewon and any others would be pleased to negotiate with them. On the other hand, since the bill has been in print for a while, and since we have made an effort to get the shipbuilders and others to review it, I would think the last-minute objections to the bill couldn't be expected to simply take it off the docket.

Mr. ANDERSON. Could we delay it for 2 days?

Mr. Bosco. What I would prefer to do, if the committee and the chairman are willing, is to move ahead, if we could, with the markup; and before it gets to the full committee, we can resolve this issue.

If the Port of Los Angeles has the facilities and these ships can be economically dismantled there, we won't bring the bill up to the full committee at all. Certainly, we can work that out amongst ourselves.

Mr. BIAGGI. It is a suggestion I made. I have no problem with that.

I think we should proceed. We can dispense with the bill, dispose of this bill, at the full committee, one way or the other.

Clearly, the question must be answered—Mr. Anderson's question must be resolved. We are on the record. An opposition statement has been made, that there are facilities that could dismantle, contrary to the testimony given by the witness.

So, I think it is important that we resolve that matter.

The hearing is now closed, and we will start the markup proceeding.

Thank you, Mr. Lewon.

[Whereupon, at 10:35 a.m., the subcommittee proceeded to markup session]

[The following was received for the record:]

V

99TH CONGRESS
1ST SESSION

H. R. 3362

To permit three specified vessels to be scrapped in the foreign market.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 1985

Mr. BOSCO introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To permit three specified vessels to be scrapped in the foreign market.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes" approved June 3, 1980 (Public Law 96–260), the Secretary of Transportation shall permit three vessels: the Pictor (Official Number 243529), the Procyon (Official Number 244022), and the Zelima (Official Number 248207), to be scrapped in the foreign market if—

(1) the purchaser and country of scrapping are acceptable to the Secretary of Transportation; and

(2) the seller agrees in writing to reimburse the United States a reasonable sum, as negotiated with the Secretary of Transportation, from profits realized as compared to profits which would be realized if such vessels were scrapped in the domestic market.

SECTION-BY-SECTION ANALYSIS

OF

H.R. 3362 -- PERMIT VESSELS TO BE SCRAPPED FOREIGN

The bill consists of one section that provides that, notwithstanding the statutory prohibition in Public Law 96-260 (94 Stat. 435) approved June 3, 1980, the Secretary of Transportation shall permit three vessels: the PICTOR (official number 243529), the PROCYON (official number 244022), and the ZELIMA (official number 248207) to be scrapped in a foreign market.

This would be allowed if the purchaser and country of scrapping are acceptable to the Secretary of Transportation.

The seller must also agree in writing to reimburse the Government on a negotiated basis from profits realized from the foreign scrapping as compared to those realized if the vessels had been scrapped in the domestic market.

NINETY-NINTH CONGRESS

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MINORITY STAFF DIRECTOR
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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515

November 26, 1985

TO: MEMBERS, SUBCOMMITTEE ON MERCHANT MARINE

FROM: Majority and Minority Staffs

SUBJECT: H.R. 3362, to permit vessels to be scrapped foreign

The Subcommittee on Merchant Marine will hold a hearing on H.R. 3362, a bill to permit the three vessels -- PICTOR, PROCYON, and ZELIMA -- to be scrapped in the foreign market. The purchaser and country of scrapping must be acceptable to the Secretary of Transportation with reimbursement to the United States from excess profits realized if the vessels had been scrapped in the domestic market. This legislation is necessary due to a statutory requirement for domestic scrapping in Public Law 96-260 (94 Stat. 435). If there is no controversy, the Subcommittee will meet in markup session immediately after the hearing.

Legislation was enacted in 1980 authorizing the Secretary of Commerce (now Secretary of Transportation) to sell five obsolete vessels for operation in the fisheries of the United States. The law provides that the vessels cannot be sold for less than their scrap value in the domestic market, all conversion work must be performed in the United States, they must be documented and operated under the laws of the United States, and the purchasers must be citizens of the United States. In addition, in the event the vessels are scrapped they must be scrapped in the domestic market. Only three of the five named vessels were sold. All bidders were commercial scrappers and the anticipated purchase by commercial fishing interests never materialized.

The disposal of obsolete vessels by the Secretary of Transportation is specifically provided for by section 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(g)). Section 510(g) provides that an obsolete vessel, which is 25 years old or more, is acquired by the Secretary, or is in the reserve fleet shall in no case be used for commercial operation. This restriction dates back to the post World War I period when there was a tremendous surplus of tonnage and the absorption of this tonnage into the domestic trade was thought to be undesirable.

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This restriction was suspended in 1940 for the duration of World War II and by Joint Resolution of July 25, 1947 (61 Stat. 449) was reinstituted. The Maritime Administration construes sections 508, 510(g), and 510(j) to limit the authority to sell surplus vessels to instances where they will be scrapped, or used for nontransportation purposes.

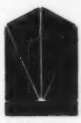
These three vessels were purchased by Levin Metals Corporation from the Maritime Administration on October 19, 1981 and have been moored at the Levin facilities since their transfer from the National Defense Reserve Fleet facilities at Suisun Bay, California. The owners report that they have used their best efforts to sell these vessels under the terms of the original sale, but it appears that the economics of conversion and operation in the fisheries in not practical. They have had sales agreements, but the prospective buyers have not been able to perform.

Levin Metals states that the dismantling of vessels for scrap in a domestic facility has changed drastically since 1980. A few years ago there were seven or eight vessel scrapping facilities on the West Coast while today there are no companies active in this field. Levin Metals dismantled many vessels in their Richmond, California yard. For all practical purposes, that yard is now out of the business. They state that the cost of labor, insurance, safety, and environmental protection has forced all West Coast shipbreakers out of this business. Most vessel scrapping is currently done in Taiwan, Korea, India, and Bangladesh.

In view of their allegation that the vessels cannot be converted for use in the fisheries and cannot be scrapped domestically, the owners desire to scrap the vessels in a foreign facility with reimbursement to the U.S. Government of a reasonable sum from any windfall profits realized from the foreign scrapping.

The Subcommittee expects to receive testimony or record materials from the Administration, Shipbuilders Council of America, Levin Metals, and other interested parties.

cc: Members, Committee on Merchant Marine and Fisheries



Shipbuilders
Council of America
1110 Vermont Avenue, N.W. • Washington, D.C. 20005 • (202) 775-9060

November 27, 1985

Dear Mr. Chairman:

This letter is in response to your invitation to the Shipbuilders Council of America to submit a statement for the record on HR-3362, a bill to permit three specified vessels to be scrapped in the foreign market. The Council is the national trade association representing the principal domestic shipbuilders, ship repairers and providers of equipment and services to the industry.

Public Law 96-260, approved June 3, 1980, authorized the Secretary of Commerce, among other things, to sell five obsolete vessels, including the FICTOR, PROCYON and ZELINA, for the purpose of conversion and operation in the fisheries of the United States after due advertisement and upon competitive bids to the highest bidder. The sale was subject to a number of conditions, namely, (1) any conversion work on the vessels had to be performed in the United States; and (2) if the vessels were to be scrapped, "they shall be scrapped in the domestic market."

HR-3362 would permit the three vessels enumerated above to be scrapped in the foreign market if (1) the purchaser and country of scrapping are acceptable to the Secretary of Transportation; and (2) the seller agrees in writing to reimburse the government a reasonable sum, as negotiated with the Secretary, from profits realized as compared to profits which would be realized if such vessels were scrapped in the domestic market.

The Council understands that Levin Metals Corporation purchased the vessels from the Maritime Administration in October 1981 and moved them to their facility in Richmond, California where they remain. The Council further understands that Levin Metals has been unable to sell the vessels under the terms of the original sale for economic reasons and they have been unsuccessful in their efforts to find a company located on the West Coast which would or could dismantle the ships.

In view of the foregoing, the Shipbuilders Council does not object to HR-3362 in its present form.

With best personal regards.

Sincerely,

H. Lee Rice
President

Honorable Mario Biaggi, Chairman
Subcommittee on Merchant Marine
Committee on Merchant Marine and Fisheries
Room 1334 Longworth House Office Building
Washington, DC 20515

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